WORKING TOWARDS AN ILO CONVENTION ON DOMESTIC WORK:
An MFA Report
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“...collectively gathering to do what is right ... participating in making this long overdue historic move, ... accomplishing a historic mission to advance the cause of social justice and end decades of exclusion for domestic workers.

The world is looking at us. I hope that we will not flinch or balk at doing the right thing.”

- Halimah Jacob
  Spokesperson, Workers’ Group
Acknowledgments

Migrant Forum in Asia would like to acknowledge the support and contributions of the following individuals and organizations that made its engagement to the 99th Session of the International Labour Conference (ILC) a success.

To all the members of the delegation for giving their time and for the valuable inputs they have contributed to the discourse.

To all the organizations and partners who have been part of this endeavor from the very beginning...

To the funders, for making it possible for the delegation to participate in the Conference...

Thanks specially to Bijaya, Bridget T., Bridget G., Hessen, John, Fr. Peter, Fr. John, Mehru, Renuka, Ralph, Sarah, Tatcee, Terence and Agnes and all the others who have contributed to this report.

And lastly, to all the domestic workers who continue to inspire and challenge all these efforts.
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List of Acronyms

ADWA– Asian Migrant Domestic Workers Alliance
ADWN– Asian Domestic Workers Network
AMC- Asian Migrant Centre
APL- Alliance of Progressive Labour
ASI- Anti-Slavery International
ASPAG- Asia-Pacific governments
BWI- Building and Woodworkers International
CAW- Committee for Asian Women
CCIG- International, International Catholic Center of Geneva
CCTU- Cambodia Confederation Trade Union
CEC- Center for Education and Communication
CEDAW- Convention on the Elimination of Discrimination Againsts Women
CGAS- Communauté Genevoise d’Action Syndical
CMA- Center for Migrants Advocacy
CMW- UN Committee on Migrant Worker
CSD- Civil Society Day
DGD- Day of General Discussion
EPS- Employment Permit System
FES- Friedrich Ebert Stiftung
GCC- Gulf Cooperating Council
GFMD- Global Forum on Migration and Development
GRULAC,- Group of Latin American and Caribbean States
HKCTU- Hongkong Confederation of Trade of Unions
HRC – Human Rights Council
HRW- Human Rights Watch
IDWN- International Domestic Workers Network
ILC- International Labour Conference
ILO- The International Labour Organization
ILS- International Labour Standards
IOM- International Organization for Migration
IUF- International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and
ITTIS- Industrial Training and Technical Internship System
ITUC- International Trade Union Confederation
IWG-DW- International Working Group for Domestic Workers (IWG
IYCW- International Young Christian Workers
LSCW- Legal Support for Children and Women
MCM- Migrants Campaign Month
MWC- Migrant Workers Convention
NDWM- National Domestic Workers Movement
NGOs- Non-government organizations
OHCHR- United Nations High Commissioner on Human Rights
PGA- People’s Global Action on Migration, Development and Human Rights
SADSAWU- South African Domestic Service and Allied Workers’ Union
List of Acronyms

SIT- Syndicat Interprofessionnel de Travailleuses et travailleurs
TUCP- Trade Union Congress of the Philippines
TWC2- Transient Workers Count Too
TWG- Technical Working Group
UN- United Nations
UPR- Universal Periodic Review
Introduction
The International Labour Organization (ILO) is a specialized agency of the United Nations (UN) which Migrant forum in Asia (MFA) views as an important arena for advocacy. Among other UN mechanisms, ILO is a unique forum because employers and workers have an equal voice with governments in shaping ILO policies and programmes. It also provides greater space for the participation and voice of migrant workers.

The ILO’s broad policies are set by the International Labour Conference (ILC) which meets once a year bringing together its constituents – governments, employers and workers’ groups to adopt new international labour standards, ILO’s workplan and budget.

MFA’s first engagement with the ILC was in June 2004 when a General Discussion on migrant workers was included in the agenda of the 92nd Session of the ILC and the Multilateral Framework on Labour Migration was adopted. MFA sent a nine-member delegation who took part in the ILC.

That initial engagement with the ILC enabled the network to build alliances with workers groups and trade unions; developed critique on labour migration and the ILO; continued advocacy on migrant workers’ issues at the national, regional and international levels and capacitated its members and partners on international lobbying. As a concrete result of this initial engagement, MFA came up with a Trade Union-Non-government organization (TU-NGO) collaboration program which significantly advanced its advocacy on migrants’ rights.

After six years, MFA again participated in the 99th Session of the ILC which was held on 2-18 June 2010, where for the first time domestic work was included in its agenda for possible standard setting to recognize the dignity of domestic workers and to ensure their protection. MFA brought a strong delegation from East Asia, South East Asia, South Asia and West Asian region. See Annex 1 for the list of participating organizations.

The recognition and protection of the rights and dignity of migrant domestic workers is a core campaign of the organization since its inception. MFA was the first network in the region to call for the recognition of migrant workers right to freedom of association and to organize and form associations or trade unions. MFA members in Hong Kong helped spearhead the organizing of Filipino and Indonesian migrant domestic workers union. A specific MFA task force on migrant domestic workers was set up to look into this campaign. A number of campaigns were launched advocating for the rights and protection of domestic work, including the campaign for Equal Pay Equal Work addressing the wage discrimination of domestic workers because of race; the Regional Campaign on the Recognition of Domestic Work as Work and International Campaign for the Rights and Recognition of Domestic Workers. MFA considers the ILO Governing Body decision in March 2008 to include domestic workers as an agenda item at its 99th Session of the ILC as a significant and crucial development for women’s movement and domestic workers groups.

Following the release of the ILO calendar which depicts the crucial dates for the campaign, MFA took a multi-strategy approach utilizing different avenues in order to gain support from key actors who could move the campaign and build pressure at the national, regional and international levels. It engaged its members (advocates and migrant domestic workers) and partners in capacity building activities, strategy meetings, and international engagements and lobbying with the tripartite constituents.

MFA also created linkages with key domestic work networks across the globe and strengthened its partnership with its West Asian partners.

Specific to the campaign for the adoption of an ILO Convention for Domestic Workers, MFA’s call is embodied on the slogans: (a) “Domestic Work Is Work!” (b) “Domestic Workers Are Workers!” and (c) “Domestic Work Is Not Slavery!”

This report documents MFA work around the campaign for the adoption of an ILO Convention on Domestic Work. It presents the preparatory activities and strategies that the network and its delegation underwent prior to and during the ILC. It also provides its own analysis of the deliberations that happened during the Committee on Domestic Work Sessions and the way forward.
The Historical Oversight
The International Labour Organization (ILO) has long expressed the need for specific attention to domestic workers dating back in 1948 where the 31st ILC adopted a resolution concerning the employment of domestic workers finally as an area of concern.

Though domestic workers are included in some ILO Conventions, domestic workers are explicitly ignored in the coverage of national labour laws. If they are included, quite often, these legislations give them lesser rights compared to other workers. Some ILO Conventions also allowed employers and governments to exclude them through flexibility clauses.

In a report prepared by the ILO during a general discussion on migrant workers at its 92nd ILC Session in 2004, it was emphasized that migrant domestic workers are among the most vulnerable workers.

Sixty years after, in March 2008, the Governing Body finally decided to put decent work for domestic workers on the agenda of the 2010 99th Session of the ILC to develop appropriate instruments for domestic workers that would ensure their protection and address their specific needs.

To prepare for its first discussion in June 2010, the ILO came up with a calendar which also guided NGOs and domestic workers groups in their advocacy. See Annex 2 for the ILO Calendar.

Consistent to Article 39 of ILO’s Rules and Regulations ILO released a Law and Practice Report or the Decent Work for Domestic Workers Report IV (1) in April 2009 along with a questionnaire to which the governments submitted its replies.

The Report documented the significance of domestic work in contemporary world (particularly its invisibility), coverage under International Labour Standard (ILS) and flexibility devices that may exclude domestic workers, analysis of national legislations, policies and programmes, social protection and historical exclusions, migrant work, forced labour, slavery linkages and suggestions for a new Convention on Decent Work for Domestic Workers drawing on creative regulatory experimentation around the world and technical cooperation programme to support specific regulation of domestic work.
On the other hand, the questionnaire presented the possible elements to be included in a Convention or in a Recommendation. For the Convention, the following elements were included:

- **general principles**
- **call on ratifying States to adopt, implement and periodically review a national policy on domestic work aimed at improving the situation of this category of workers**
- **scope of the instrument**
- **encourage consultations with representative organizations of employers and workers in this field (including with organizations directly concerned with domestic workers) address issues related to special characteristics and conditions of DW i.e. working conditions, wages, minimum age, social security coverage and protection of migrant domestic workers**

The Recommendation outlines the following:

- **Identification of the special conditions in which DW is carried out**
- **Circumscription of the practice of payment in kind**
- **Guidance on identifying, limiting and appropriately calculating working time**
- **Guidance on food and accommodation for live-in domestic workers**
- **Address vulnerabilities of domestic workers, including age and migration status, and identify standards specific to them**

The replies on the questionnaire served as a basis for the second report also known as the Yellow Report which was made available in February 2010.

The Yellow Report reflects the replies of ILO’s tripartite constituents and the Proposed Conclusions that set the tone of the discussion at the 99th Session of the ILC.

The Report aided domestic workers’ advocates to identify the target of their lobbying work given the responses of the governments.
Our Position
The struggle for recognition of and respect for domestic workers’ rights is a long and arduous road aggravated by rapid changes in our globalized world. Domestic work is considered to be one of the largest, yet unprotected segments of the labour sector. This is so because in many countries domestic workers are not covered by labour legislation. Even if laws and protection mechanisms are in place, the nature of domestic work (working in private households) prevents most domestic workers from accessing information about their rights.

While cognizant of the existing policy reforms affecting domestic workers, these changes fall far short of the reforms needed to combat widespread abuse, much less remove the systematic vulnerabilities and discrimination/marginalization of domestic workers.

MFA’s campaign to provide legal protection for domestic workers has been intensified due to these existing gaps in national labour laws where in most cases domestic workers are excluded.

The ILO has repeatedly expressed that unless a Convention or Recommendation expressly excludes domestic workers, these workers are included in the international instrument’s scope. Further, the ILO also takes the position that the specific nature of domestic work is not an adequate reason to exclude such workers from the protection of international labour standards.

Domestic workers, just like all other workers, deserve the highest form of protection. MFA urges the governments to support a Convention supplemented by a Recommendation. A Convention is a binding instrument that when ratified creates legal obligations requiring governments to take specific and effective national laws and regulations and recognize domestic workers as workers. Such robust instrument that would ensure adequate protection for domestic workers is what domestic workers need.

MFA urges the governments to support a Convention supplemented by a Recommendation. Such robust instrument that would ensure adequate protection for domestic workers is what domestic workers need.
Our Response
Following MFA’s multi-strategy approach in addressing migrants’ issues from the grassroots level to building collective capacity, MFA utilized different avenues and strategies in order to influence the ILO constituents and build the momentum leading up to the 2010 ILC. Activities in preparation for the 2010 ILC targeted advocacy at the national, regional and international levels.

In order to prepare for the ILC, MFA identified first its key target audience to be influenced and involved in supporting its campaign. It also provided mechanisms for its members and partners participate in crafting a policy position that underwent a critical scrutiny and led to consensus-building. This was done through a series of multi-stakeholder consultations both at the national and regional levels.

MFA also provided opportunities for concrete expressions of support of action like public forums, mobilizations and other public events, which were mostly conducted by its member organizations. To further highlight the campaign, MFA devoted its 2009 Migrants Campaign Month (MCM) on the theme “Domestic Work is Work!” encouraging its members to conduct activities to raise public awareness, appreciation and understanding of the issue.

The network also utilized UN mechanisms and other international platforms to elevate the issue at the international community. These mechanisms gave the network the opportunity to influence relevant UN treaty bodies to take on the issue of domestic work.

To back-up its campaign, the network also invested in collecting information relevant to the campaign.

Most importantly, MFA gave paramount importance in creating and strengthening linkages among civil society organizations (CSOs) and trade unions working on the issue of domestic workers.

Its 25-member delegation to the 2010 ILC was actively involved from the start of the campaign. The delegation was composed of MFA members and partners who have rich experiences on the domestic work campaign.

The delegation was in Geneva during the deliberations on the form and content of the draft instrument which were held 2-11 June.

Meetings were held to further strategize prior to the Opening Sitting of the Conference.

During the ILC, MFA delegation took a proactive stance in lobbying with governments to support a Convention supplemented by a Recommendation and ensure that important articles on migrant domestic workers are secured. Domestic workers concerns were shared through direct lobbying, strategic side events, oral interventions, and submission of amendments to the Proposed Conclusions.

The succeeding discussions document the network’s strategy and proactive engagement prior to and during the 2010 ILC.
I. PRE-ILC ENGAGEMENT

A. Online and Multi-stakeholder consultations at country, sub-regional and regional levels

As earlier mentioned, the ILO released its Law and Practice Report (Decent Work for Domestic Workers IV (1) along with a questionnaire to which ILO Members States need to respond. The questionnaire covered the form of the instrument and its scope. Subsequent to the release of the questionnaire, MFA together with Asian Migrant Domestic Workers Alliance (ADWA) spearheaded the consultations at the national and regional levels.

The online consultation among its members and partners sought to initially gather information on what should be the content of the proposed instrument and to determine if the network has a common understanding on what should constitute a strong instrument. While the network calls for the adoption of a Convention supplemented by a Recommendation, differences of perspectives on important areas emerged. The result helped the network to level off and arrived with common positions on the ILO questionnaire.

Following the online consultation, multi-stakeholder consultations were held at the national and regional levels. National level consultations were held in three major sending countries in Asia—Philippines, Indonesia and Cambodia. Recognizing the unique tripartite structure of the ILO where governments, employers and workers groups have influence and power in the negotiation table, MFA sought the support of trade unions especially the highly representative workers groups in the country to co-host these consultations.

A regional consultation gathering members and partners across Asia was organized in September 2009 in Mumbai, India. Two sub-regional consultations were held in Delhi and Kathmandu in December 2009 and April 2010 respectively. Another regional consultation and strategy meeting were organized in May 2010. Specific details and significance of these consultations are outlined below.

These processes generated responses to a possible ILO instrument. They also validated the ILO’s Law and Practice Report that while there are existing legislations/mechanisms that protect domestic workers, these are not enough to address specific conditions of domestic workers. An instrument which specifically addresses the special needs of domestic workers is essential. The framework must be drafted with focus on dignity of work and rights to life and safety, which are necessary to improve the conditions of domestic workers.

From these consultations, it was found out that most governments and even trade unions lack the political will to take up the issue of domestic work. Not all governments submitted their replies to the ILO questionnaire. There are also the conflicting perspectives of governments and CSOs. CSOs assert for rights-based approach to the problem, while governments limit their responses to a welfare-based approach.

A major stumbling block that was also identified was the lack of reliable and comprehensive data on domestic work. The ILO report also reflects this chronic problem. The level of awareness among domestic workers was also seen as a big challenge since most of the domestic workers are not organized. Building the political leadership of domestic workers was identified as one of the priority areas.

In effect, these consultations proved to be effective as it enabled the network to document the existing
gaps in terms of providing legal protections for domestic workers, identifying specific areas for advocacy and foresee the challenges ahead. Furthermore, it paved the way for consolidating the efforts with other networks that are directly involved in the campaign. Alliances and partnerships were established and maintained. Asian and international networks forged together and agreed on common positions, formulated joint plans, and coordinated efforts for the adoption of an ILO Convention on Domestic Work.

Below are the highlights of the various consultations held in line with the campaign.

**Philippine National Consultation**  
**13-16 May 2009**  
**Tarlac City, Philippines**

The Philippine consultation was organized by MFA in collaboration with ADWA, Visayan Forum, Alliance of Progressive Labour (APL), Trade Union Congress of the Philippines and the Center for Migrants Advocacy (CMA). The consultation was the first of its kind in Asia. Civil society organizations, trade unions, faith-based organizations, academe, domestic work groups, government units and other sectoral groups came together to understand the issue and jointly plan on how to drive the campaign in the Philippines.

The consultation saw the convergence of local and migrant domestic workers groups who have committed to jointly campaign for the best interest of all domestic workers. Among others, the consultation enabled the participants to:

- Become aware of the existing international instruments and mechanisms that protect women especially migrant workers and how to use these mechanisms to ensure that women are protected against abuse and exploitation.
- Jointly plan for the passage of the “Kasambahay Bill” (Domestic Workers Bill) and the adoption of an ILO Convention for Domestic Workers. The Kasambahay Bill has been running for more than ten years now.
- Come up with a working document which was used by the Technical Working Group (TWG) on the conduct of its island-wide tripartite consultations in Luzon, Visayas, Mindanao and workers consultation in Manila.

In terms of its impact, the government of the Philippines supported the adoption of an ILO Convention for Domestic Workers.

**Indonesia Consultation**  
**18-19 June 2009**  
**Jakarta, Indonesia**

The consultation in Indonesia was held on 18-19 June and was co-organized by MFA, ADWA and Migrant Care Indonesia. Forty representatives from local trade unions, migrant organizations, workers’ organizations, faith-based organizations, women’s organizations and human rights organizations participated in the consultation. The consultation as well brought together local and migrant domestic workers organizations to tackle the issue of decent work and legal protection for domestic workers both local and migrant.

Similar to the Philippines process, the consultation also came up with its inputs to the ILO questionnaire as well as discussion on the advocacy strategy plan on the rights of women migrants and migrant domestic workers.

Aside from the above output, a working group on the domestic workers rights was created by key organizations present in the consultation. The network included representatives from migrant organizations, domestic workers organizations, women’s organizations as well as local domestic workers organizations.

Support from the Members of Parliament for the passage of a draft bill for domestic workers was likewise sought.

Though the government of Indonesia only favours the adoption of a Recommendation, Indonesian CSOs, trade unions and domestic workers are still positive that their government will change their position before the 2011 ILC.

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1 Visayan Forum, Alliance of Progressive Labor, Trade Union Congress of the Philippines, Federation of Free Workers (FFW), Informal Sector of the Philippines, SUMAPI, Migrant Forum in Asia, Department of Labor and Employment, Philippine Commission on Women and Employers Confederation of the Philippines (ECOP)
Cambodia Consultation
7-8 July 2009
Phnom Penh, Cambodia

The Legal Support for Children and Women (LSCW) together with Migrant Forum in Asia, ASIAN Domestic Worker Alliance (ADWA) and the Cambodia Confederation of Trade Unions (CCTU) organized the national consultation on the Rights of Women Migrants and Domestic Workers from 7-8 July 2009 in Phnom Penh, Cambodia. The consultation brought sixty participants from trade unions, CSOs, government agencies and UN agencies such as ILO to have a look at the issue of domestic workers, local and migrants, and the existing international instruments and national legislation which protect the domestic workers and migrant domestic workers.

Like other countries, domestic workers in Cambodia are not also covered by the national labour law though there are few articles that mention about domestic workers. Cambodia is a signatory of CEDAW and other international instruments, but it has no specific legislation for domestic workers.

The workshop addressed what is needed to be plugged in the gaps in the current law and established that there is a requirement for a national and regional advocacy plan to protect local and migrant domestic workers. The Workshop considered that at national level, there is a need to create public awareness and propose a bill specifically for domestic workers.

The Workshop concluded that CSOs should work closely with ILO in pushing the Royal Government of Cambodia in coming up a national legislative framework for domestic workers and enhance public awareness on the contribution of domestic workers to the economy of Cambodia and receiving countries.

Regional Consultation on Domestic Work: Building Collective Capacities for Action
3-4 September 2009
Mumbai, India

The regional consultation which was held in Mumbai, India on 3-4 September 2009, aimed to come up with a consolidated regional position on the proposed ILO instrument, coordinate on-going actions and further strengthen the broader campaign for the protection of domestic workers. Helping MFA with the organizing of the event were: ADWA, the National Domestic Workers Movement (NDWM) and the Center for Education and Communication (CEC). Around fifty representatives from different groups from East Asia, South Asia, Southeast Asia and the West Asian region participated in the consultation.

The participants discussed about the existing campaigns on the recognition of domestic work as work, which varied in terms of level of involvement on the issue. The consultation validated the ILO
which justifies the need for a Convention. Domestic workers face problems under the four pillars of decent work which include: rights to work, employment, social protection and social dialogue.

Aware of the stigma attached to domestic workers, the participants made a strong call for the need to counterframe the language used with references to domestic workers. This is important in challenging the politics of dominance imposed by governments and the society. The consultation came up with an agreement to carry three common campaign slogans for the International Campaign for the Recognition of Domestic Work as Work: (1) Domestic Work is Work! (2) Domestic Workers are Workers and (3) Domestic Work is Not Slavery.

These slogans were adopted by MFA’s members and partners and translated into different languages.

Cognizant of the fact that the campaign for an ILO Convention for Domestic Workers is just part of the broader campaign for the protection of domestic workers, the participants reflected that whether there will be a Convention or not, the campaign for the protection of domestic workers will continue and remain to be an integral part of the advocacy. Participants were also challenged with two questions: *Will the Convention change the current patterns of domestic workers’ issues? Will it promote the good and curtail the bad?*

As a result of this consultation, the following documents were produced:

- Consolidated Regional Response to the ILO Questionnaire.
- ILO Handbill
- Domestic Work Posters translated in different languages

*South Asia Members Training on the Road to the 2010 International Labour Conference (ILC) 5-6 December 2009 Delhi, India*

On 5-6 December 2009, MFA’s South Asia members came together for a *South Asia Training on the “Road to the 2010 International Labour Conference and South Asia (SA) Process”* in New Delhi, India. The training was jointly organized by MFA and the Center for Education and Communication (CEC). MFA members from Bangladesh, India and Nepal attended the training.

The issue of domestic work in South Asia is hardly new but it remains to be invisible in most parts of the region. Among the SA countries, it is only in India where the issue of domestic work and their slavery like conditions has been highlighted. This is evidently seen by the the emergence of domestic work policies in some States in India. The National Domestic Workers Movement (NDWM), a national network of domestic workers groups, has long been fighting for the rights and recognition of domestic workers.

The 2-day training was organized in order to equip MFA SA members with the knowledge on the issue, come up with a South Asia strategy in preparation for the 2010 ILC, and explore the common issues in the South Asian region toward developing a coordination process to address the issues.

Participants noted that the next 5 months were critical to focusing the advocacy towards achieving a domestic workers’ convention. It was emphasized that organizations in South Asia should coordinate with each other on their activities on the ILO Convention because of the big number of migrant domestic workers working in the Gulf region, participants thus also emphasized the need to collaborate with organizations in West Asia in relation to the advocacy on domestic workers’ rights.

CEC prepared a special issue of labour file on domestic workers upon the request of the ILO which was made available in February 2010.

One of the recommendations of the training was to have a South Asia Consultation in April 2010 bringing together trade unions and CSOs for information exchange and explore opportunities for further collaboration.
South Asia Consultation on Domestic Work  
15-16 April 2010, Kathmandu, Nepal

The South Asia Consultation on Domestic Work was held on 15-16 April 2010 in Kathmandu, Nepal. It was conceived as a step forward for stronger and coordinated efforts in the region and seeking to consolidate the different processes happening across the region and further strengthening the broader campaign involving trade unions, peoples’ movements and other organizations for the protection of domestic workers and advocacy for the adoption of an ILO Convention on DW. The consultation also strengthened the existing alliances and became an important space for confidence building among CSOs and trade unions in the South Asian region working on the issue of domestic work.

Participants were able to carefully examine the critical areas of debate on the Proposed Conclusions:

- Definition of domestic work
- Scope of the Convention
- Issues on minimum age, minimum wage, social security, restriction of movement, day off, termination of contract, regulation of domestic employment, freedom of association, and regulatory mechanisms
- Inclusion of migrant domestic workers in the national labour legislations
- Reintegration of migrant domestic workers

Gaps and challenges were also identified that helped the participants in coming up with an advocacy plan focusing on the 2010 ILC and other follow-up activities at the national level.

Regional Training on Advocacy for ILO Convention and Recognition of Domestic Work and Trade-Union Domestic Workers Strategy Meeting on the 2010 ILC  
2-5 May 2010, Astoria Plaza Hotel  
Pasig City, Manila, Philippines

The training was a result of the recommendations of the December 2009 East Asia Conference in Hongkong organized by HKCTU and IDWN-Asia where regional networks and local organizations of domestic workers groups and trade unions came together to forge a common agenda for the 2010 ILC.

As ILC 2010 drew closer, MFA together with ADWA, the Philippine Technical Working Group (TWG3), Hongkong Confederation of Trade of Unions (HKCTU), Asian Migrant Centre (AMC), Committee for Asian Women (CAW) and ILO-Manila, organized a back-to-back regional training for domestic workers and a strategy meeting to prepare for ILC 2010.

The 2-day regional training on DW advocacy aimed to enhance the capacity of DW and trade union lobbyists and campaigners, and build the Asian regional DW lobby and campaign team, especially from the ranks of domestic workers and trade union partners. With the emergence of domestic workers’ unions, alliances and networks at the country, regional and international levels, domestic workers are now in the position to lead their own advocacy and represent themselves in critical processes such as the standard-setting process of the ILO.

The participants found the training very helpful especially in terms of understanding the issue, dealing with the media and getting the advocacy message across.
The 2-day TU-DW strategy consultation that followed aimed to strengthen the frontline role of domestic workers and trade unions on the lobbying for the ILO DW Convention; to jointly prepare and strategize lobbying at ILC 2010; and strengthen collaboration and strategies for the “International Campaign for the Rights and Recognition of Domestic Workers”. The strategy consultation was convened by the key regional domestic workers’ groups and trade unions, in partnership with the ILO and advocacy partners to highlight the impressive gains of local and migrant domestic workers, trade unions and civil society in adopting a common position for the ILO Domestic Workers Convention, and jointly campaigning for the recognition of domestic work.

The strategy meeting enabled the participants to discuss in detail the specific activities at the national level and the action plan for Geneva. They came up with a guide document on the Proposed Conclusions to enable themselves to understand the issues on the ground and understand the spectrum of work around domestic work, and how it could possibly be reflected in an ideal Convention. This guide document was used as a reference document of the network’s delegation to the ILC especially in terms of submitting amendments to the Proposed Conclusions.

At the end of the Conference, a Statement was adopted providing participants with a common framework for action. (See Annex 3 for the Statement).

**B. Engagement in the UN Treaty Mechanisms and other International Platforms**

Utilizing existing UN treaty bodies’ mechanisms and other international platforms has been an important aspect of MFA’s advocacy. Elevating the issue at the UN and international levels greatly contributed in driving the campaign forward. MFA engages these UN processes to gain international support and influence the respective mandates to address the issue.

Among the UN mechanisms and international platforms that the network tapped were the Human Rights Council Session, UN Migrant Workers Committee Session, Special Rapporteurs’ Meetings and the 3rd Global Forum on Migration and Development (GFMD).

**Human Rights Council Session**

At the 11th and 12th Sessions of the Human Rights Council in June and September 2009, MFA co-organized two side events entitled “Migrant Domestic Workers Forging Ahead Towards an ILO Convention: “Challenges and Opportunities” and “Migrant Domestic Workers and Contemporary Forms of Slavery”.

The side event on Migrant Domestic Workers Forging Ahead Towards an ILO Convention: “Challenges and Opportunities” unmasked the situation of domestic workers in the West Asian region, Africa, the US, Asia and Europe. The panelists shared the same stories and predicaments about the deplorable conditions and vulnerabilities of migrant domestic workers, especially those who are undocumented, which are further intensified by the current global financial crisis. The exchanges of data and information among the panelists revealed a poignant reality that indeed domestic workers are excluded from social protection and labour laws.

It was attended by domestic workers groups from Asia, USA, Africa, Latin America and Europe and representatives from the ILO, the Committee on Migrant Workers and trade union groups who agreed on a common position that there is a need to be more proactive in reaching out to other groups in order to ensure that the voices of domestic workers are heard in the ILC.

In the side event on “Migrant Domestic Workers and Contemporary Forms of Slavery”, the SR on Contemporary Forms of Slavery, Shaninian Gulhanara, who was working on a report on domestic work and contemporary form of slavery, served as one of the panelists. Joining her were representatives from Caritas Lebanon, RESPECT Network-Europe and the National Domestic Workers Movement (NDWM).

3 The Human Rights Council is an inter-governmental body within the UN system made up of 47 States responsible for strengthening the promotion and protection of human rights around the globe. The Council was created by the UN General Assembly on 15 March 2006 with the main purpose of addressing situations of human rights violations and make recommendations on them.
The panellists shared the slavery-like conditions of domestic workers in their respective countries that could be considered bonded labour i.e. no food and no communication, debt bondage, sexual harassment among others.

Participants hoped that the standard setting of the 2010 ILC will be the beginning of a real lasting change for domestic workers around the world.

**UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families’ (CMW)**

The UN Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW or, “the Committee”) is a body of independent experts which monitors the implementation of the Migrant Workers Convention by is State members. The CMW is required to meet annually (although in practice they meet bi-annually) to hear reports on the implementation of the Convention.

The sessions of the CMW create a unique opportunity for engagement with international processes in order to move an agenda of protection, dignity and rights for all migrants and their families. For MFA it is also an avenue for capacitating its members and partners in utilizing international instruments to defend the rights of migrant workers.

On 12-16 October 2009, the CMW met for its 11th Session in Geneva, Switzerland. The agenda included the official examination of the Sri Lankan government on their progress of implementing the MWC and a Day of General Discussion (DGD) on migrant domestic workers. The Day of General Discussion on Migrant Domestic Workers, a public meeting that is open to all interested participants, was held on 14 October. The purpose of the discussion was to assist the Committee in responding to the concerns of MDWs during the examination of State Reports and in formulating recommendations to the 2010 ILC. Prior to the DGD, MFA sent a submission to the Committee to be able to contribute to the discussion. See [http://www2.ohchr.org/english/bodies/cmw/docs/DGD/MigranForumAsia.pdf](http://www2.ohchr.org/english/bodies/cmw/docs/DGD/MigranForumAsia.pdf) for MFA’s submission.

The DGD was attended by approximately 50 participants, the majority coming from civil society groups and nationals (Bahrain, Israel, Italy, Lebanon, the Netherlands and Senegal), regional (Africa, Asia) and international representation. International organizations and representatives from permanent missions to the United Nations Office Geneva also participated.

Two themes were discussed: 1) **Recruitment and employment of migrant domestic workers and; 2) Effective protection of migrant domestic workers’ rights.** Based on the discussions, the Committee formulated recommendations to be passed onto the ILC. The full text of the CMW report on the Day of General Discussion, including the recommendations to the ILC, can be found at: [http://www2.ohchr.org/english/bodies/cmw/dgd141009.htm](http://www2.ohchr.org/english/bodies/cmw/dgd141009.htm)

Following the DGD, the Committee considered the adoption of a General comment on migrant domestic workers for its 12th Session in April 2010.

MFA made a submission as well to the Committee in adopting a General Comment on Domestic Work during its 12th Session in April 2010. **(Please visit MFA’s website to view MFA’s submission- www.mfasia.org)**

**3rd Global Forum on Migration and Development**

On the occasion of the 3rd Global Forum on Migration and Development (GFMD) held on 2-5 November 2009 in Athens, Greece, MFA together with the International Working Group for Domestic Workers (IWG-DW), a network of domestic workers, migrants, trade unions and civil society organizations across the globe working on domestic workers’ issues, organized the 4th International Workshop on Domestic Work.
The workshop was aimed at examining and consolidating the different campaigns of the various regions and sectors and deciding how to move the campaign forward towards the 2010 ILC and beyond. The participants heard updates from the campaigns in India, Cambodia, USA, Dominican Republic, Hong Kong, South Africa, the Middle East and Geneva.

The workshop in Athens made clear the need to get an active international network going. Participants agreed there is a need to start building a movement of domestic workers. The need to think about interface with other global initiatives in which different groups can participate was emphasized as well.

The deliberations in Athens called for an international solidarity necessary to have a strong advocacy at the ILC and to further mainstream the issue and gain public interest and support. These validated the findings and negotiations at the country level that there has been little attention given to the issue. Despite the challenges, participants had high hopes that something positive will come out of the negotiations.

**C. Launched the 8-HR Campaign**

In December 2009, MFA together with ADWA launched the 8-HR Campaign in Hongkong. The “8-HR” refers to the defining elements that must be guaranteed in order to say that domestic workers are properly recognized as workers. These elements include: 8-hour principle, HR or human rights and 8Rs or rights. The overall goal of the campaign is to advocate for national, regional (Asia), and international policy and practice changes promoting the recognition of domestic workers demands. To know more about the campaign, please visit MFA’s website at www.mfasia.org.

**D. Building alliances and networking with CSOs and trade unions**

Recognizing the need for international support and pressure, MFA took effort in creating linkages and building bridges among domestic workers groups and CSOs advocating on the rights of domestic workers and other advocates who are committed to supporting MFA’s position.

Among these linkages were the following:

**Technical Working Group on the Philippine Campaign for Decent Work**

In the Philippines, MFA is a member of the Technical Working Group for the Philippine Campaign on Decent Work for Domestic Workers. The Working Group has two main objectives, namely: 1) to present a unified Philippine statement for the 2010 International Labor Conference, and; 2) to push for the passage of a law for domestic workers (the Batas Kasambahay). The campaign is now in the midst of a series of consultations to assess gaps, recognize good practices and formulate decent work standards and practical implementation mechanisms at the national and international levels.

**International Working Group for Domestic Workers (IWG-DW)**

At the International Level, MFA is also a member of the International Working Group for Domestic Workers (IWG-DW) steering committee. The IWG-DW is an open platform of local and migrant domestic workers’ organizations, trade unions, migrant groups, and civil society organizations across the globe working on domestic workers’ issues. The IWG-DW was set up in October 2008 during the 3rd International Workshop on Domestic Work held in Manila, Philippines.

The IWG-DW Steering Committee is composed of representatives from Asia, Europe, USA and Latin America. Specific to the ILO Convention, IWG-DW facilitates cooperation and information sharing among domestic workers organizations, migrants’ communities, campaign networks and relevant global trade unions in order to complement and converge efforts especially in building an international network and to campaign for the adoption of the proposed ILO Convention on Domestic Work.

**International Domestic Workers Network (IDWN)**

IDWN is an initiative of domestic workers’ unions together with support organizations. The objectives of the network are: to assist in the organization of domestic workers’ unions where they do not yet exist; to serve as a clearing house for the exchange of information; to organize mutual support and solidarity; to advance common political aims.
(international standards, national legislation); to represent domestic workers at international level; and to secure the support of the wider labour movement for each of these objectives.

Moreover, linkages with other ILO affiliated trade unions were also created. One concrete manifestation of this is the linkage that was created with South Asian trade unions who are officially part of the ILC.

**E. Observance of the Migrants Campaign Month (MCM)**

The MFA network observed the Migrants Campaign Month by focusing on its domestic work campaign. MFA members conducted face-to-face meetings, public rallies and other forms of pressure tactics, public forums, symposias, petitions, statements and press releases to inform the public and disseminate the information about the campaign.

Country level lobbying with governments was also conducted. Some MFA members had dialogue with the country delegation to the ILC.

**F. Capacity building and organizing of Migrant Domestic Workers**

Conscious of the need to directly involve migrant domestic workers in the campaign, the network saw the strategic need to train domestic workers and form an Asian domestic work campaign team to spearhead the lobbying and campaigning at the country, regional and international levels.

This strategy was found very useful in helping domestic workers understand well the issue and the ILO process. Domestic workers were made to understand the ILC dynamic which is one of debate, negotiating and compromise, and therefore not to raise so much expectations.

In Hongkong, members held a series of trainings to capacitate domestic workers about the 8-HR campaign and the ILO process.

**G. Lobbying with the Missions**

To supplement the lobbying at the country level, MFA also sought dialogue with some country missions in the Philippines to discuss with them about the network’s positions on the proposed ILO Convention and to feedback the same to their respective countries and to the delegation that participated in the ILC.

**H. Strengthen relationship with West Asia partners**

The West Asian region remains to be a challenge to the network in pushing its agenda for migrant workers considering that the network has no existing members in the region. The network is able to move its campaign through its partner organizations. Networking with the West Asian region has become an important part of its work considering that a large majority of migrant workers particularly migrant domestic workers are concentrated on this region.

Throughout the campaign process, MFA engaged its partners in its activities and programmes on domestic work. MFA partners found the exercise mutually satisfying as it gives them a better grasp of the issue from sending country perspective and learn other avenues on how to drive the campaign.

The network was also able to establish new linkages with partners from Jordan, Kuwait and UAE.

At the ILC, MFA was able to bring partners from Bahrain, Israel, Jordan, Lebanon, Kuwait, Oman and the UAE.
I. Maximize engagement with ILO Geneva

MFA maintained close contact with ILO ACTRAV Geneva which gave MFA an opportunity to access information concerning ILO’s preparations and negotiations on the Convention.

J. Production of campaign materials

Apart from the activities and other foras mentioned above, MFA channeled its message through the use of printed materials like domestic work posters carrying the three campaign slogans4, t-shirts, stickers, pins and “bandana”.

As part of its capacity-building and awareness raising components, the network came up with 4 booklets on the ILO process and the network’s response to the campaign and its position. (See MFA’s website to view these booklets: www.mfasio.org)

K. Data Collection

Apart from the above activities, one important aspect of MFA’s strategy is the collection of data. MFA collected relevant information on domestic work such as domestic work bills, current initiatives and programs, developments on policies etc. which guided the network in its advocacy plan and targeting priority countries for lobbying.

A compilation of domestic workers bills across the globe was produced which gives advocates an opportunity for further advocacy. The compilation is also designed to help advocates and domestic workers in understanding the issue based from the context of each country.

L. Accreditation and Participation at the 2010 International Labour Conference

In order to monitor the debate, MFA applied for its accreditation in September 2009 and was accepted in February 2010. Given that the network comprises more than 200 member organizations, MFA requested for a number of people who will represent the network in the ILC.

Simultaneous with the accreditation process, MFA also negotiated with ILO affiliated trade unions to include its members in its delegation as advisers. In the country delegation, CSOs can participate in the official discussions as observers or advisers of the workers’ groups.

Five (5) from the MFA network/delegation sat as advisers to the workers group. This enabled the network with the leverage to influence the process.

M. Released a Petition Letter calling for an ILO Convention on Domestic Work

MFA together with ADWA and Asian Migrant Centre (AMC) released a petition letter calling for an ILO Convention on Domestic Work that would help break gender and class stereotypes and lay down the basis for an employer-employee relationship in domestic work. The letter was signed by around 1,000 people and was submitted to some governments. (See Annex 4 for the Petition letter.)

4The campaign’s slogans are: Domestic Work is Work!, Domestic Workers are Workers! and Domestic Work is Not Slavery!
II. DIRECT ENGAGEMENT AT THE ILC

The 99th Session of the International Labour Conference was held on 2-18 June 2010. According to ILO Director, Juan Somavia, this year’s ILC was the most participated Conference which reflects the importance of the issue to the ILO constituents. The participation of the CSOs was also said to be overwhelming.

The succeeding discussions present the highlights of MFA’s work inside the ILC.

A. The ILC Agenda

The 99th Session of the ILC had a seven-point agenda which are divided into two categories: (1) Standing items, and (2) items placed on the agenda by the Conference or the Governing Body.

Standing Items:

I. (a) Reports of the Chairperson of the Governing Body and of the Director-General
(b) Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work
II. Programme and Budget and other questions
III. Information and reports on the

Items placed on the agenda by the Conference or the Governing Body:

IV. Decent work for domestic workers (standard setting, with a view to the possible adoption of a Convention supplemented by a Recommendation)
V. Elaboration of an autonomous Recommendation on HIV/AIDS in the world of work (standard setting, second discussion)
VI. Discussion on the strategic objective of employment (first in the cycle of recurrent discussions to follow up on the 2008 ILO Declaration on Social Justice for a Fair Globalization)
VII. Review of the follow-up to the 1998 ILO Declaration on Fundamental Principles and Rights at Work

The Committee on Domestic Work was in-charged of the discussion on agenda item IV.

B. MFA Advocacy and Engagement

Of the seven agenda items mentioned above, agenda item IV on Decent Work for Domestic Workers was the primary reason for MFA’s participation in the ILC. MFA also participated in the 14th Human Rights Council Session which took place at the same time with the ILC.

First daily briefing at the Serpentine Bar, 01 June 2010.
The 25-member delegation of MFA was composed of twenty three domestic work advocates from the migrants groups and faith-based organizingns and two migrant domestic workers from Indonesia and Singapore. The delegation came from various countries in East Asia, South Asia, Southeast Asia and West Asia. These countries included Bahrain, Oman, Dubai, Jordan, Israel, Kuwait, the Philippines, Singapore, Hongkong, India, Nepal, Japan, Malaysia, Indonesia and Singapore.

Prior to the ILC, the MFA Secretariat prepared a common agenda for the delegation to maximize participation at both the ILC and HRC.

Upon arrival in Geneva, the delegation secured its UN and ILO badges. After which, a briefing was held to inform the delegation of the daily schedules and the critical dates which required strategic interventions.

To ensure that MFA will not miss any of the discussions, a group of core people was assigned to diligently attend all sessions and provide updates about the negotiations. After each Committee session, the delegation went on to do lobbying with their respective governments. Daily briefings were also held in order to update the team with schedules, government positions and lobbying strategies. The briefings were very much useful for team members who were not familiar with the ILC and HRC process.

The most critical part of the ILC was the deliberations on the form of the instrument, scope and definitions.

As for the positions of the Governments, Workers and Employers, it was noted that there were governments who came with a firm stance on their positions, some which spoke as a regional bloc, while others appeared indecisive went for the majority vote. Some interesting dynamics were also seen among the governments with a few of them shifting their positions while a few others remained silent and passive.

Domestic workers’ first victory took place on 04 June, when a record vote was recorded against government of India’s proposed amendment to replace the form of an instrument from a “Convention supplemented by a Recommendation” to “Recommendation” alone. As expected, this amendment was supported by the Employers’ group but defiantly opposed by the Workers’ group.

However, majority of the Governments voted against the proposed amendment. Realizing that the proposed amendment was rejected, a record vote was requested by the Employers’ vice-chairperson. (See Annex 5 for the list of countries that favour the adoption of a Convention supplemented by a Recommendation.)

Having secured the form of the instrument, other critical areas such as the scope and definitions of the 'Convention supported by a Recommendation' were taken up in heated debates and long hours of deliberations.
Meanwhile, MFA was chosen to be one of the four CSOs who were given the opportunity to deliver a statement. The synthesis of MFA’s statement can be found in the succeeding discussions. (See Annex 6 for the whole text of the MFA Statement.)

On 10 June 2010, H.E. Archbishop Silvano M. Tomasi made an intervention on behalf of the Holy See, calling for a Convention on Domestic Work. (See Annex 7 for the Holy See’s statement.)

MFA’s participation at the ILC involved attendance in the Workers Group Meetings and Sessions of the Committee on Domestic Work.

**Participation in the Workers Group Meeting**

The MFA delegation took part in all Workers’ group meetings and Committee on Domestic Workers’ sessions. Everyday, the Workers group met twice before the Committee Sessions – 9:00-10:00 a.m. and 1:30-2:30 p.m. to discuss its interventions and responses to the arguments made by the Governments and the Employers group.

What was critical at this stage was to monitor the debate and see the arguments made by the workers.

MFA also submitted to the Workers’ group its proposals for amendments on the Proposed Conclusions to ensure that critical areas like definition, scope and provisions for migrant domestic workers are secured. These amendments were deliberated in the workers’ group meetings. At the end of each meeting, a consensus was reached which the workers group representatives presented in the Committee Sessions.

**Participation in the Committee on Domestic Work Sessions**

MFA’s accreditation did not only allow its delegation to participate in the Workers Group Meeting but also provided access to attend Committee Sessions. Though the participation was limited to being observers only, it provided the delegation a first hand-experience to monitor the debate, analyze the arguments made by each constituent on each amendment posed and how the other constituents respond to those arguments.

MFA’s participation enabled the network to identify countries that could be allies for advocacy as well as countries where stronger advocacy was needed. This was also particularly useful in devising a strategy for the 2011 ILC and identifies areas for further lobbying at the country, regional and international levels.

The Committee session usually holds two sessions every day, at 10:30a.m.-1:30 p.m. and at 3:00-6:00 pm. However, due to the intense and long discussions, evening sessions were also held at 7:00p.m.-10:00p.m. starting on 06 June, to ensure that all articles will be covered before the Conference meets in plenary on 16 June.

The succeeding discussions present the highlights of the Committee Sessions which the delegation attended.
The Conference was formally opened on 02 June with Her Excellency President Doris Leuthard of Switzerland addressing the Conference.

Nomination of Committee Chairs and election of officers shortly followed, with the following as the elected officers of the Conference:

- Chairperson: Lourdes Trasmonte, Government member, Philippines
- Vice-Chairpersons: Mr K. Rahman, Employer member, Bangladesh and Halimah Yacob, Worker member, Singapore

Immediately after the election of officers, opening statements from the Committee Chairs and other governments were heard.

The Chairperson called on the Governments, Employers and Workers groups to take a proactive role in ensuring that the Committee would fulfill its mandate by consensus, taking the historic opportunity to recognize the social and economic value of domestic workers, and to demonstrate the commitment of governments and the social partners to finding effective ways of extending decent work to that group of workers. She was also aware of the challenges ahead for the Committee and hoped that it would assume responsibility for delivering meaningful outcomes, in a spirit of social dialogue and mutual understanding.

*Her Excellency President Doris Leuthard of Switzerland addresses the Conference.*
Government response should be through informal and simplified regulations. A Recommendation provides flexibility to cover the diverse range of activities of domestic workers and will enable governments to implement existing mechanisms and come up with a national law thus providing better protection for domestic workers than a non-ratified Convention.

In response, the Workers’ group spokesperson emphasized Committee’s important historic mission to make decent work for all. She recounted that for so many years, domestic workers remain excluded from protection against abuse as evidenced by their exclusion from national labour laws and even from many international treaties including ILO Conventions through its flexibility clauses.

Providing domestic workers with an international instrument in the form of a Convention supplemented by a Recommendation is just the “right thing to do”. It could be used by governments as reference for improving legal environment that would enable domestic workers to have the full range of protection and rights to decent work. She also countered several other points that were raised against a Convention. (See Annex 8 for Ms. Jacob’s speech)

The opening statements of the governments and workers groups showed a positive environment that a binding instrument will be favoured at the end of the Conference. Expectedly, the employers are against a Convention.

Apart from the opening statements, procedures and mechanics of the Conference were also announced.

Providing domestic workers with an international instrument in the form of a Convention supplemented by a Recommendation is just the right thing to do – Halimah Jacob

5 Proposed Conclusions are drawn up by ILO based from the replies received by the Office on the questionnaire. The Proposed Conclusions was used as the basis for June 2010 ILC.
The Committee’s First Session provided ILO constituents the opportunity to reiterate their positions on the proposed instrument.

The Employers members spoke first, voicing their strong opposition to a Convention on Decent work for domestic workers. They said regulations may not be the way to protect the rights of DWs. Regulations for DWs are an unusual situation for employers groups. For them, the term “domestic worker” is unique and very broad. How to define DW? What activities fall under DW?

Flexibility is important and essential. In developing countries 4-10% of the work force is DWs. An overly rigid Convention would be counterproductive and will result in increased unemployment and informality, and ultimately in decreased protection of domestic workers. Higher costs in employing domestic workers could lead to higher costs in the commercial sectors. Many governments do not have regulations to investigate and monitor families and households who employ domestic workers. There is the right to privacy and safety for both the domestic workers and the employer. He further added that, his group do not support the idea that “any work was better than no work”, and they wished to achieve decent work for domestic workers. The Employer members support a recommendation because it is more flexible.

The Workers’ Group spokesperson followed, voicing the workers strong support for a Convention on Decent work for domestic workers supplemented by a Recommendation. Decent work for all must be truly inclusive of domestic workers. Slavery was abolished 200 years ago but domestic workers are still not protected. Domestic workers are excluded.
from many ILO Conventions. In 1965, the ILO called for standards to protect domestic workers. Many governments support standard settings. With the improvement of standards economies have grown. A Convention supplemented by a Recommendation will help domestic workers move from the informal sector to the formal sector. It will help protect their human rights, and for them to receive decent wages with decent living conditions.

Spain, representing the EU, spoke first saying the EU countries were “thinking” of a Convention supported by a Recommendation. Domestic workers must have the fundamental right to collective bargaining and association. A more general and flexible instrument is preferable. Australia, representing ASPAC, wanted a clear, robust and meaningful Convention supplemented by a Recommendation. Venezuela, representing GRULAC, also voiced their support for a Convention supplemented by a Recommendation. Uruguay agreed with the position of Venezuela. Switzerland said it was in favor of a Recommendation only. China said it was difficult to have an international Convention but it will support the majority view.

The Committee’s First Session was graced by ILO’s Director, Juan Somavia. Somavia said this is a historic moment for ILO. He also noticed that this year’s Conference is the most participated Conference which shows how important the issue is. He encouraged delegates to reach a common understanding on an instrument that would generate hope and benefit a huge number of people.

With respect to ILO’s decent work agenda, he stressed the dignity of work of domestic workers. Work does not only mean a cost of production but for society and people, it is a source of personal dignity.

The issue of domestic work is a complex one which requires strong solution. In deliberating how to protect domestic workers, he encouraged the Committee to go the extra mile to be able to produce an instrument that everybody could be proud of.

“Work does not only mean a cost of production but for society and people, it is a source of personal dignity”, says Juan Somavia, ILO’s Director
Thirty-five governments spoke during this session. In the morning session, the Government members who clearly voiced their support for a Convention supplemented by a Recommendation were: Kenya, Brazil, USA, Norway, Argentina, and Morocco. Among the governments that spoke, the USA came up with a very strong statement supporting a Convention supplemented by a Recommendation. It supported provisions that addressed the need for protection against abuse and exploitation, in particular of undocumented migrant workers and children.

The Government members who clearly voiced their support for a Recommendation only were: Singapore, Canada, and India. UK said there is the need for flexibility to be applied broadly. Libya said they need to move towards an international instrument to protect the rights of domestic workers. Algeria said there is a need for policies and strategies to protect domestic workers. (On the 3rd Day, Libya and Algeria were absent for the vote on India’s amendment.) Kuwait, representing the Gulf countries, and Iran did not clearly state their positions but on the 3rd Day they voted in support of India’s amendment.

In the afternoon session, seventeen government members spoke. Australia and Venezuela once again expressed their strong support for a Convention supplemented by a Recommendation. The other Government members who voiced support for a Convention supplemented by a Recommendation were: South Africa (representing the African countries), Namibia, Tunisia, Zimbabwe, Tanzania, Ethiopia, Sri Lanka, Maldives and France. The Philippine government was the only government that supported a Convention only which must be a binding instrument for all States. Ghana did not clearly state its position but on the 3rd Day, they voted against India’s amendment. Japan was not clear on its position and on the 3rd Day, they abstained from the vote on India’s amendment. Indonesia, Bangladesh and New Zealand did not clearly state their positions. On the 3rd Day, they all supported India’s amendment. However, at the beginning of the day 4 sessions New Zealand said its preference was for a Recommendation rather than a Convention but it will now participate fully in the discussion to ensure a good outcome.

Only 11 Government members from Asia spoke. Three Government members were in support of a Convention supplemented by a Recommendation, namely Australia,
Philippines and Sri Lanka. Two Government members voiced clearly their support for a Recommendation only, namely Singapore and India. Kuwait (representing the Gulf States), Indonesia, Bangladesh and New Zealand did not clearly state their positions but their sentiments were in support of a Recommendation only. China and Japan were both sitting on the fence and could be seen to go either way.

Summing up the interventions on the 2nd Day, the following governments expressed their support for:

**A Convention supplemented by a Recommendation**

- Kenya
- Brazil
- USA
- Norway
- Argentina
- Morocco
- Australia and Venezuela
- Africa (representing the African countries)
- Namibia
- Tunisia
- Zimbabwe
- Tanzania
- Ethiopia
- Sri Lanka
- Maldives
- France
- Indonesia
- Bangladesh
- New Zealand

Apart from the ILO constituents, four NGOs and one UN Office, the United Nations High Commissioner on Human Rights (OHCHR) were given the chance to deliver their statements. These NGOs included the following: Human Rights Watch, International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers’ Associations (IUF), International Young Christian Workers (IYCW), and Migrant Forum in Asia.

The OHCHR representative emphasized that the issue of domestic work is very much linked to the issue of human rights. The problems faced by domestic workers are not simply individual actions but systemic violations. While recognizing the existence of other international instruments covering domestic workers, OHCHR calls for a new instrument to ensure broad protection for all domestic workers- local and migrants.

The representative of the International Young Christian Workers (IYCW) spoke about the lack of recognition of the home as workplace and the absence of employment relationship between the employers and domestic workers which put the latter in a very vulnerable situation. IYCW called on the Committee to take action that would promote the best interest of all domestic workers and allow them to enjoy the same rights as other workers.

**Recommendation**

- Singapore
- Canada
- India
- UK

**Without a clear position**

- Libya
- Algeria
- Kuwait, (representing the Gulf countries)
- Iran
- Ghana
- Japan

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7 Gulf countries include: Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, United Arab Emirates, and Yemen
Vicky Kanyoka, representative of the International Domestic Workers’ Network (IDWN) expressed her strong opposition for adopting a Recommendation only and countered the employers’ position that having a strong instrument such as a Convention would drive domestic work further into informality. She stressed that the sufferings of domestic workers are due to lack of strong mechanisms that would guarantee their protection. Echoing the best practices in some poor countries such as the United Republic of Tanzania, she challenged the rich countries that have the resources to make sure measures are also feasible. Therefore, a Convention supplemented by a Recommendation would be more favourable for domestic workers.

Human Rights Watch’s (HRW) Nisha Varia, urged the Committee to support a binding Convention supplemented by a Recommendation in order to address the specific conditions of domestic workers. She highlighted the critical points which the Committee should consider. Specific to migrant domestic workers, she emphasized the need for greater bilateral and multilateral cooperation including oversight of private recruitment agencies. She also pointed out that research had shown that positive measures taken by governments, could, and did, make a difference. She urged the governments to draw from the experiences of countries where domestic workers are able to organize and form unions and the workplace are covered by inspections.

Ellene Sana spoke on behalf of MFA. Cognizant of the fact that women constitute a large majority of migrant workers in Asia and predominantly engaged in domestic work, Sana stressed that MFA supports definitive, coherent and comprehensive ILO instrument on domestic work. While recognizing the existence of core UN instruments and fundamental ILO labour standards which could be used and are being used by domestic workers’ groups and advocates in asserting their rights, an ILO Convention on domestic work would clearly establish minimum standards and rights for all domestic workers. It would help reduce the worst forms of child labour, the stigmatization and criminalization of migrant domestic workers, including undocumented workers, and racial and ethnic discrimination.

Sana concluded her statement by asserting that domestic workers should be centrally and critically involved in the process of formulating the instrument so as not to reinforce their non-recognition and marginalization.
On the 3rd Day (5th and 6th Sittings), the Committee opened the discussion on the amendments submitted by the governments, employers and workers groups on the Proposed Conclusions with a view to a Convention. Points 1 and 2 were deliberated on. Point 2 raised a heated debate when India proposed an amendment and prompted the employers group to request for a record vote. India’s amendment to Point 2 read as:

*Replace “Convention supplemented by a Recommendation” by “Recommendation”*

As expected this was seconded by the employers group and strongly objected to by the workers group.

At the beginning of this session, thirteen government members voiced their opinions to India’s amendment. Ten Government members objected to the amendment, namely Venezuela (speaking on behalf of GRULAC), USA, Australia, Brazil, Chile, Dominican Republic, South Africa (speaking on behalf of the African countries), Argentina, Norway and Uruguay. Three Government members supported the amendment, namely Kuwait (speaking on behalf of the Gulf countries), Iran and Bangladesh.

With the support of the majority of the government members in favour of a Convention supplemented by a Recommendation, the employers vice-chair requested for a recorded vote.

The names of 26 Government members from Asia were called. The 6 Government members against the amendment were: China, Lebanon, Philippines, Sri Lanka, Syrian Arab Republic and Thailand. The 12 Government members for the amendment were: Saudi Arabia, Bahrain, Bangladesh, United Arab Emirates, India, Indonesia, Iran, Kuwait, Malaysia, New Zealand, Oman and Qatar. The 2 Government members who abstained were: Israel and Japan. The 6 Government members who had no reply were: Afghanistan, Cambodia, Iraq, Jordan, Pakistan and PNG.

Of the 109 Government members called 62 voted against the amendment; 13 voted for the amendment, 4 abstained, and 30 had no reply. The amendment was rejected.

It should be noted that up until this stage of the proceedings of the 79 Government members who took part in the vote on India’s amendment only 11 of the 22 Asian countries had spoken during the sessions. Those countries who were silent were Lebanon, Syria Arab Republic, Thailand, Saudi Arabia, Bahrain, UAE, Malaysia, Oman, Qatar and Israel.
During this session a long discussion was held on the amendment to Point 3 brought forward by the EU Government members to insert the words “on a regular basis”. In this session the following Asian Government members spoke – Japan, Australia, Indonesia, Kuwait (Representing Gulf Countries) and Bangladesh.

Point 3 refers to definitions of domestic work and a domestic worker. Prior to the composition of the Working Party, the deliberations revolve on what comprise a domestic work; what are the tasks involved in domestic work and whether a person who works sporadically as a domestic worker can be considered a domestic worker or should be excluded from the Convention. The original text reads as follows:

For the purpose of these standards:

(a) the term “domestic work” should mean work performed within an employment relationship in or for a household or households;

(b) the term “domestic worker” should mean any person engaged in domestic work for remuneration.

In order to move the morning discussion forward the Employer members proposed that a working party be formed to reformulate Point 3 and Point 5. The proposal was adopted and the workers group was comprised of 2 Employer members, 2 Worker members and 5 Government members.

Committee on Domestic Work Session
During this session, deliberations were focused on the amended texts on Points 3-7 proposed by the Working Party.

The following amended texts were proposed by the Working Party:

For the purpose of these standards:
(a) the term “domestic work” should mean work performed in or for a private household or households;
(b) the term “domestic worker” should mean any person engaged in domestic work within an employment relationship;
(c) a person who performs domestic work only occasionally or sporadically and not on an occupational basis is not a “domestic worker”.

In this session the following Asian Government members spoke mainly to seek clarification on the two amended texts – Japan, Indonesia, Iran, Lebanon, Australia and Bangladesh. The two texts were adopted with a minor amendment made to Point 3 (a). The word “private” was deleted.

Point 4 refers to the content of the Preamble. The original text reads as follows:

The Convention should include a preamble with the following wording:
(a) mindful of the commitment of the International Labour Organization to promote decent work for all;
(b) considering that domestic work continues to be undervalued and invisible and is mostly carried out by women, many of whom are migrants or members of historically disadvantaged communities, and therefore particularly vulnerable to abuses of basic human rights and to discrimination in respect of employment and working conditions;
(c) recognizing the significant contribution of domestic workers to the global economy, which includes increasing paid job opportunities for workers with family responsibilities;
(d) recalling that international labour Conventions and Recommendations apply to all workers, including domestic workers, unless otherwise provided;

Proposed amendments to Point 4 were inclusion of other UN and ILO Conventions relevant to domestic workers as well as addition and deletion of wording.
Point 5 refers to the scope of the Convention where the existing text describes that the Convention should apply to all domestic workers. However, the scope provides flexibilities for ILO Member States to exclude wholly or partly limited categories of workers after consultation with the most representative organizations of employers and workers. Further, the existing text does not define the limited categories of workers which were deliberated on during the session.

The original text reads as follows:

(1) The Convention should apply to all domestic workers, provided that a Member which has ratified it may, after consulting representative organizations of employers and workers and, in particular, organizations representing domestic workers and their employers, where they exist, exclude wholly or partly from its scope limited categories of workers when its application to them would raise special problems of a substantial nature.

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

Deliberations were focused on the phrase “special problems” which were both raised by the workers and employers representative. The words “special problems” were removed upon agreement. Point 5 was adopted as amended.

Point 6 refers to the fundamental principles and rights at work. Deliberations focused on the introduction of Point 6. The original text reads as follows:

“Each Member should take measures to ensure that domestic workers enjoy the fundamental principles and rights at work, namely:

(a) freedom of association and the effective recognition of the right to collective bargaining;
(b) the elimination of all forms of forced or compulsory labour;
(c) the effective abolition of child labour; and
(d) the elimination of discrimination in respect of employment and occupation.

The government member of Singapore presented an amendment to make it consistent with the ILO Declaration on Fundamental Principles and Rights at Work, 1998 which read as:

“Each Member should, in relation to domestic workers, respect, promote and realize, in good faith,”

The Government members of Norway and the United States supported the above proposal. The workers representative opposed to the amendment arguing
that the proposed amendment left out a critical part of the Proposed Conclusions - “take measures to ensure that”. This was supported by the government member of South Africa and sought clarification on the meaning of “in good faith”.

The Workers representative proposed a sub-amendment to insert “to take measures to” after domestic workers and to add “in accordance with the ILO Constitution after “in good faith”. This was supported by Canada, Singapore, Spain and the US.

The amendment was adopted as subamended.

**Point 7** refers to the minimum age for admission of domestic work. The existing text says that the minimum age should not be lower than that established by national laws and regulations for wage earners in general.

The original text reads as follows:

1. Each Member should set a minimum age for admission to domestic work which should not be lower than that established by national laws and regulations for wage earners in general.
2. Where, in accordance with national laws and regulations, domestic work is qualified as work which, by its nature or the circumstances in which it is carried out, is likely to jeopardize the health, safety or morals of young persons, the minimum age should not be less than 18 years.

The EU government members proposed an amendment stressing the need to include Conventions 138 and 182 in the text to ensure that the provisions on these Conventions are applied to all domestic workers. This was supported by the employers representative with a proposal for a sub-amendment to replace “wage earners in general” with the words “workers generally”.

The workers representative supported the proposed amendment introducing another sub-amendment to insert child labour after Convention 182. The government members of Indonesia, Norway, Sweden and the Philippines supported the proposal as subamended by the employers and workers representative.

It is to be noted that the Government member of the Philippines was silent throughout all of the discussions on Days 3 and 4, and during the morning session of Day 5.

There was a lengthy discussion on South Africa's proposed amendment to add a new paragraph stating that “Member States should ensure that domestic work performed by child domestic workers does not deprive them or interfere with their education or vocational training”.

The government member of the Netherlands, USA, Uruguay and the Bolivarian Republic of Venezuela supported the African group’s amendment.

The workers representative raised her reservation on the above amendment as it may appear endorsing child labour.

At the end of the session, the Committee Chair announced that beginning on 08 June, evening sessions from 7:00-10:00 P.M. will be held to ensure that all points will be covered before the Committee meets in plenary.
On the 6th Day, amendments on Points 8-14 were discussed. 

Point 8 refers to the provision on fair terms of employment and decent working conditions. The original text reads as follows:

“Each Member should take measures to ensure that domestic workers, like all wage earners, enjoy fair terms of employment as well as decent working conditions and, where applicable, decent living conditions respecting the worker’s privacy.”

The employers’ representative proposed an amendment replacing the word “decent” with “appropriate” which was strongly objected to by the workers’ representative because it would weaken the text and that the word “appropriate” is highly subjective. The proposed amendment reads as follows:

“Each Member should take appropriate measures to ensure that domestic workers, like workers generally, enjoy fair terms and conditions of employment, appropriate working conditions and, for live-in domestic workers, appropriate living conditions respecting the worker’s and householder’s privacy, taking account of national laws and regulations.

The Workers’ representative presented two amendments on the employers’ amendment. - (1) replace the term “appropriate” with “decent” before the words working conditions and to delete the phrase “and householder”s” before “privacy” and to delete the phrase “taking account of national laws and regulations” at the end of the paragraph.

After some deliberations and interventions from the governments, the employers group withdrew their proposed amendment.

Another amendment was proposed by the workers’ representative aimed at ensuring domestic workers like all other wage earners enjoy decent working conditions with emphasis on occupational health and safety. The employers’ representative supported the amendment but introduced a sub-amendment replacing “wage earners” with “workers in general”.

A quite number of governments objected to the amendment of the workers group stating that occupational safety be linked with the issue of privacy as
it is more appropriate in Point 15. With that in view, the workers’ representative withdrew that part of the proposed amendment and supported the subamendment made by the employer members.

Upon reaching a consensus, the proposed amendment was adopted as subamended.

**Point 9** refers to the employment contract and its content. The original text reads as follows:

“Effective measures should be taken to ensure that domestic workers are informed, in an appropriate and easily understandable manner, of their terms and conditions of employment, in particular:

- the name and address of the employer;
- the type of work to be performed;
- the rate of remuneration, method of calculation and pay interval;
- the normal hours of work;
- the duration of contract;
- the provision of food and accommodation, if applicable;
- the period of probation, if applicable; and
- the terms of repatriation, if applicable.

The employers’ representative proposed an amendment to the introduction which reads as:

“Domestic workers should be informed of their terms and conditions of employment in an appropriate, verifiable and easily understandable manner, including, where possible, through written contract, in accordance with national laws and regulations, including where possible.”

The workers representative supported the above amendment with some reservations on the phrase “where possible” was rejected because it would weaken the original text.

The government member of Australia voiced out Point 9 is one of the most critical elements in the proposed instrument and expressed preference for the original text. This was supported by the government members of Argentina, Brazil, Canada, Congo, on behalf of the Africa group, the Philippines, Spain, on behalf of EU Member States, the United States, and the Bolivarian Republic of Venezuela, on behalf of GRULAC.

On the other hand, the government members of Indonesia and Bangladesh supported the employers’ group’s amendment.

The workers representative proposed another sub-amendment which reads as:

“Members should ensure that domestic workers are informed of their terms and conditions of employment in an appropriate, verifiable and easily understandable manner, including through written contracts in accordance with national laws and regulations, in particular:”

The employers’ representative proposed a further subamendment to add “where possible and preferably” after “including”, which was supported by the workers’ representative. In response, the government member of the US proposed a further subamendment adding “in a language they understand” after “informed” which was eventually withdrawn due to some reservations of other government members.

The workers amendment as adopted as subamended.

**Point 10** refers to the provision to ensure that domestic workers enjoy effective protection against all forms of abuse and harassment. The original text is read as:

“Each member should take measures to ensure that domestic worker enjoy effective protection against all forms of abuse and harassment.”

The workers representative proposed an amendment emphasizing the need to explicitly mention the word “remedies” in the existing text. The government members of South Africa, the United States and the representative of the Secretary-General clarified that in ILO terminology the words “effective protection” included “taking remedies”. Government member of South Africa further added that the Convention should focus on the main principle and stressed the need to keep the text simple.
Some other governments that spoke echoed the same sentiments and stressed the need to retain the original text.

Point 10 was adopted retaining the original text.

**Point 11** refers to the provision on accommodation and possession of travel documents. The original text is read as follows:

> “Each Member should take measures to ensure that domestic workers”:
> (a) are free to negotiate with their employer whether to reside in the household;
> (b) are not bound to remain in or with the household during the period of daily rest, weekly rest or annual leave; and
> (c) are entitled to keep in their possession their travel and identity documents.

The employers’ representative proposed an amendment stressing the privacy of both the workers and the household which was also supported by the workers group. After some other amendments from other governments, Point 11 was adopted as amended.

**Point 12** refers to the normal working hours, overtime compensation, periods of daily rest and weekly rests and paid annual leave. The original text reads as follows:

(1) Each Member should take measures to ensure that the normal hours of work, overtime compensation, periods of daily rest, weekly rest and paid annual leave of domestic workers are not less favourable than those applicable to other wage earners.
(2) Weekly rest should be at least 24 consecutive hours in every seven-day period.
(3) Periods during which domestic workers are not free to dispose of time as they please and remain at the disposal of the household in order to respond to possible calls should be regarded as hours of work to the extent determined by national laws or regulations, collective agreements or any other means consistent with national practice.

The deliberations on Point 12 were focused mainly on the use of the words and other additional phrases to strengthen the existing text. Clarity on the meaning of the national laws was also discussed to ensure that everybody is on the same page.

**Point 13** refers to the need to have a minimum wage. The original text reads as follows:

> “Each Member should take measures to ensure that domestic workers enjoy minimum wage coverage, where such coverage exists, and that rates of remuneration are established without discrimination based on sex.”

There were not many deliberations on Point 13 except for minor replacement of words.

**Point 14** refers to the “enforcement” of the minimum wage. The original text reads as follows:

(1) The wages of domestic workers should be paid directly to them, only in legal tender and at regular intervals but not less often than once a month.
(2) National laws or regulations, collective agreements or arbitration awards may exceptionally provide for the payment of a limited proportion of the remuneration of domestic workers in the form of allowances in kind, in conditions not less favourable than those applicable to other categories of wage earners, provided that measures are taken to ensure that such allowances are appropriate for the personal use and benefit of the worker, and that the value attributed to such allowances is fair and reasonable.

Deliberations on Point 14 were focused on the use of the words “legal tender” which the employers’ representative argued that this term is used for cash payment only which the workers representative negated citing Article 3(1) of the Protection of Wages Convention, 1949 (No. 95) on the use of legal tender. Other terms that were deliberated on were remuneration and wages.
On the 7th Day, amendments on Point 14 were continued and amendments on Points 15-19 were introduced.

The use of “legal tender” was accepted. The government of Chile introduced a sub-amendment to delete the word “only” from the first line of Point 14 (1). Another subamendment was introduced by the government member of the US proposing the deletion of the word “and”. The employer members’ amendment on Point 14 (1) was adopted as subamended.

The employers’ representative proposed an amendment on Point 14 (2) proposing that “a part of the domestic worker’s remuneration may be paid in kind in accordance with national laws and regulation”, which they eventually withdrew upon the opposition of the workers group and government members of Ecuador, Bolivarian Republic of Venezuela, South Africa, Australia, Uruguay, Philippines and the US.

Deliberations on Point 14 (2) revolved around the amendment proposed by the government member of Portugal on behalf of EU Member States replacing the original text to read as follows:

“National laws or regulations and collective agreements subject to national law may, as an exception to point 14 (1), provide for the payment of a limited proportion of the remuneration of domestic workers in the form of allowances in kind, in conditions not less favourable than those applicable to other categories of wage earners. The value attributed to these allowances must be fair and appropriate”.

The employers group proposed a sub-amendment to replace wage earners with “workers generally” which was accepted by the workers representative. Australia and the US also proposed another sub-amendment which was both agreed by the workers’ and employers’ representative.

Another lengthy discussion happened on Point 14 (2) and other amendments were put forward.

“Taking into consideration point 14 (1), national laws or regulations and collective agreements subject to national law may, as an exception to point 14 (1), provide for the payment of a limited proportion of the remuneration of domestic workers in the form of allowances in kind, with due regard for the specific circumstances of domestic work in conditions not less favourable than those applicable to other categories of...”
workers generally, provided that measures are
voluntarily agreed to by the worker and are appropriate for the personal use and benefit of the worker, and that the value attributed to such allowances is fair and reasonable.”

The above text was adopted as subamended. The following were the sub-amendments proposed:

- Deletion of the phrase “with due regard for the specific circumstances of domestic work” (workers’ representative)
- Deletion of the word “voluntarily” (employers’ representative)

The government member of the US, still expressed his reservations on the deletion of the word “voluntarily”

Point 15 refers to the provision on social protection for domestic workers. The original text is read as:

(1) Each Member should take measures, with due regard to the specific characteristics of domestic work, to ensure that domestic workers enjoy conditions that are not less favourable than those applicable to other wage earners in respect of:
(a) occupational safety and health; and
(b) social security protection, including with respect to maternity.
(2) The measures referred to in paragraph (3) above may be applied progressively.

The EU Government members introduced an amendment replacing the words “with due regard” with “with regard” and the phrase “to ensure that domestic workers enjoy conditions that are not less favourable than those applicable to other wage earners in respect of” with “to set up appropriate conditions of protection for domestic workers in respect of”.

The intention was to recognize the special nature and conditions of domestic workers and therefore come up with protective measures that specifically address their needs.

The government members of Canada, the USA, Philippines, Australia, Uruguay and South Africa opposed this amendment and suggested to retain the original text asserting that the concerns raised by the EU governments could be addressed by the phrase “with due regard to...”.

The EU government members after seeking clarification with the representative of the Secretary-General on the meaning of the phrase “with due regard to...” withdrew the amendment but stated that the issue will be revisited in 2011.

The government member of Indonesia introduced an amendment that sought to insert “in conformity with national laws”. This was seconded by the government member of Singapore and supported by the Employer members.

The Worker members and Australia disagreed with the amendment. Bangladesh had a slight problem with the amendment. The amendment was not adopted.

The employers representative introduced an amendment in favour of the domestic workers which was supported by the workers representative. This was supported by the government members of Indonesia and Australia.

Point 16 refers to the provision requiring national laws and regulations for a written contract for migrant domestic workers prior to crossing borders. The original text reads as follows:

(1) National laws and regulations should require that migrant domestic workers receive a written contract containing minimum terms and conditions of employment that must be agreed upon prior to crossing national borders.
(2) Each Member should specify, by means of laws, regulations or other measures, the conditions under which migrant domestic workers are entitled to repatriation upon the expiry or termination of the employment contract.
(3) Members should cooperate with each other to ensure the effective protection of migrant domestic workers’ rights under this Convention.
A lengthy discussion took place on Point 16 (1) on the applicability and practicability of the written contract. EU member states spoke on the context of the regional integration area where migrant workers are free to move to another area and get new employment. It would be impractical for migrant workers who are not nationals of the EU states to go back to their respective countries and get another contract in order to comply with the Convention. Likewise, for EU nationals, in most cases, they migrate first to another country (within EU) before seeking employment therefore it is impossible to get a contract before crossing borders.

To address the issue, suggestions were put forward to include bilateral and multi-lateral agreements which were also opposed by some governments as not all multi-lateral agreements address the issue of domestic work. Some discussions also centered on the use of written offer of employment, information and contract.

In order to move the discussion, the employers’ representative proposed to postpone the discussion to have more time to reach a consensus. This was agreed to by the workers’ representative. The discussion therefore on Point 16 was postponed to a later sitting of the Conference.

Resuming the Session, the text that was deliberated on as proposed by EU member states, Australia, Canada, New Zealand, Norway, Switzerland, and the African group reads as follows:

“National laws and regulations should require that migrant domestic workers receive a written job offer or a contract of employment containing minimum terms and conditions of employment that must be agreed upon prior to crossing national borders for the purpose of taking up domestic work to which the offer or contract applies without prejudice to (1) regional, bilateral or multi-lateral agreements, (2) the rules of the regional integration area, where applicable to migrant domestic workers”.

Point 16 (1) was adopted as subamended with the following record request from the following governments:

- Indonesia- to put on record that the written job offer is understood as legally-binding

Estonia- special arrangements should be put in the 2011 discussion
Chile- the subject should be tabled in the 2011 discussion

On Point 16 (2), EU member states proposed to move point 16 (2) after paragraph 1 of point 26 as the issue of repatriation has already been addressed in Point 9 and therefore conditions should be left to the member states to decide. This was accepted by the workers’ representative considering the workers support for Point . They also agreed to move details of termination of employment to the Proposed Recommendation. The government member of the US introduced an amendment to insert “at no cost to the worker” after repatriation to ensure that the migrant domestic worker will not bear the burden of repatriation.

The above proposal was accepted and adopted. However, uncertain of its position whether Point 16 (2) should be moved to Recommendation, the government member of Bangladesh, requested that it be further discussed in 2011 ILC.

The workers’ representative proposed a new paragraph after Point 16 (2) but was eventually withdrawn with the understanding that the issue will be revisited in 2011. Below was the proposed text:

“Members should ensure that migrant domestic workers shall not be regarded as an illegal or irregular situation by the mere fact of the loss of their employment, which shall not in itself imply the withdrawal of their authorization of residence or, as the case may be, work permit.”

“Members should take measures to ensure that migrant domestic workers are able to change employer after a reasonable period”.

The government member of Bangladesh requested to revisit the above issues put forward by the workers’ representative in the 2011 ILC.
**Point 17** refers to the right of domestic workers for dispute settlement. The original text reads as follows:

“Each Member should take measures to ensure that domestic workers have affordable and easy access to fair and effective dispute settlement procedures.”

The EU government members presented an amendment with some additions after the word “procedures” so that the text reads as “that are no less favourable than those available to other wage earners”. The purpose was to preserve the principle of non-discrimination in accessing justice.

The amendment was adopted with the sub-amendment.

**Point 18** refers to the provision requiring Member states to come up with mechanisms that would monitor compliance with the national laws keeping in mind the specific context of domestic work. The original text is read as:

“Each Member should put in place arrangements that are suited to the specific context of domestic work to ensure compliance with national laws and regulations applicable to domestic workers”

The employers representative introduced an amendment to simplify the formulation without changing the meaning of the original text. Instead of using the phrase “put in place arrangements that are suited to the specific context of domestic work” the employers suggested replacing it with “establish effective means of ensuring”.

This was supported by the government member of Australia and agreed by the workers representative with a proposal for another sub-amendment to replace the words “applicable to” with “for the protection of”, Indonesia preferred to retain the original text. Point 18 was adopted as amended.

**Point 19** refers to the mechanisms available for migrant domestic workers to be protected against abusive practices. The original text is read as:

“Each Member should take measures to ensure that domestic workers recruited or placed by employment agencies, in particular migrant domestic workers are effectively protected against abusive practices.”

The employers representative introduced an amendment which proposed the deletion of point 19 which the workers representative strongly disapproved and requested for the amendment submitted by the government member of the US to insert a new paragraph which was supported by the employers group.

The US government representative cited four provisions that should be included that would further strengthen the original text. The proposed amendment read as:

Each Member should take measures:
(a) establishing criteria for registration and qualifications of employment agencies, including publicly available information on any past violations;
(b) ensuring regular inspections of employment agencies to ensure compliance with relevant laws and regulations, and instituting significant penalties for violations;
(c) providing accessible complaint mechanisms for domestic workers to notify authorities of abusive practices; and
(d) ensuring that fees incurred by agencies are not deducted from the remuneration of domestic workers

The last point (d) was necessary to protect the rights of domestic workers who were hired by agencies.

The above amendment proposed by the government member of the US was seconded by Argentina and supported by the Worker members, Employer members and Australia, Brazil, Colombia, the Dominican Republic, Indonesia, the Philippines, South Africa, and Uruguay, supported the amendment.

The Government members of Canada, Japan, Norway, Spain and the United Kingdom opposed the amendment and suggested placing Point 19 in the Recommendation arguing that a Convention should not include much detail and too prescriptive. The majority of Government members supported the amendment, therefore it was adopted.
Proposed amendments on Point 19 were continued and amendments on Points 20-21 were introduced. Also, the discussion on the amendments to the Recommendations began in the afternoon session and continued through until 1.00pm the next day.

The workers representative introduced another amendment which was sub-amended by the United States Government member by adding the following words to the original text: “including by establishing the respective legal liability of the household and agency.” The Worker members, Employer Members, Australia and Philippines supported this sub-amendment. Indonesia wanted the original text. The sub-amendment was adopted.

Another amendment was introduced by the workers representative as additional point after Point 19 aimed at protecting domestic workers in case of termination. Later it was withdrawn and proposed to address the issue in Point 38 under the Recommendation.

**Point 20** refers to the provision on how the Convention will be implemented. The original text is read as:

1. The provisions of this Convention should be implemented by laws, regulations, collective agreements or other measures consistent with national practice, by extending or adapting existing measures to cover domestic workers or by developing specific measures for domestic workers.
2. In adopting such laws, regulations or other measures, each Member should consult representative organizations of employers and workers and, in particular, organizations representing domestic workers and their employers, where they exist.

The employers’ representative introduced an amendment to Point 20 (1) which was sought to clarify the text and stress the role of social partners in adopting measures to implement the Convention. This was supported by the workers representative by introducing a sub-amendment which was supported by the employers group. Additional sub-amendments were introduced by the United States and Australia. At the beginning of the afternoon session the Worker and Employer members presented a new sub-amendment. This new sub-amendment was adopted.
**Point 21** refers to the provision which states that “The Convention should not affect more favourable provisions applicable to domestic workers under other international labour Conventions. Proposed amendments on Point 21 were withdrawn and Point 21 was therefore adopted without amendment.

The discussions on the amendments to the Recommendations began during this session and continued through until 1.00pm the next day.

**Proposed Conclusions with a view to a Recommendation**

The succeeding discussion only highlights the points which had lengthy discussion which reflects the significance of the points raised and those most relevant to migrant domestic workers.

**Point 23** refers to the measures that should be taken for domestic workers to enjoy freedom of association and collective bargaining. The original text reads as follows:

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

(a) identify and eliminate any legislative or administrative restrictions or other obstacles to the right of domestic workers to establish their own organizations or to join the workers’ organizations of their choice and to the right of organizations of domestic workers to join trade union federations or confederations; and

(b) take or support measures to strengthen the capacity of organizations of domestic workers to protect effectively the interests of their members.*

The employers’ representative introduced an amendment inserting “and employers” after “domestic workers” so the text would read as “... to ensure that domestic workers and their employers...” asserting that employers also have organizations and therefore also entitled for freedom of association and collective bargaining.

This was strongly opposed by the workers representative. A number of governments supported the objection, agreeing that Point 23 is specifically for domestic workers and it would be irrelevant to insert reference to the right of employers.

To close the discussion, the employers’ representative requested for a record vote. Since the quorum was not reached, the proposed amendment was defeated. Following the voting, a number of government members explained their views about freedom of association.

**Point 24** refers to the measures to ensure elimination of discrimination. The original text reads as follows:

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

The employers’ representative introduced an amendment to insert the word “illegal” before the word “discrimination” and to add the words “in accordance with national laws and regulations” at the end of the point.

The workers representative supported the amendment, however, sought clarity on the words “illegal discrimination” as she had some reservations on it. After hearing the explanation from the representative of the Secretary-General, the employers representative conceded and did not push the insertion of the word “illegal”. Point 24 was adopted as amended.

**Point 26** refers to the terms and conditions of employment and written contracts. The original text reads as follows:

(1) The terms and conditions of employment should be provided in writing and, when necessary, appropriate assistance should be provided to ensure that the domestic worker has understood those terms and conditions.

(2) The terms and conditions of employment should include the following particulars, in addition to those provided for in point 9:

(a) the starting date of the employment
(b) a detailed list of duties;
© paid annual leave;
(d) daily and weekly rest;
(e) sick leave and any other personal leave;
(f) the rate of pay for overtime work;
(g) any other cash payments to which the domestic worker is entitled;
(h) any allowances in kind and their cash value;
(i) details of any accommodation provided;
(j) any authorized deductions from the worker’s wages; and
(k) the period of notice required for termination.
(3) Members should consider establishing a model contract for domestic work, in consultation with representative organizations of employers and workers and, in particular, organizations representing domestic workers and their employers, where they exist.

The deliberations were focused mainly on the introduction of Point 26 where the employers representative proposed deleting the phrase “in writing” and replaced it with “in a form that is understandable to vote parties and verifiable”. Meanwhile, the workers representative proposed the deletion of the word “members” because the paragraph is more on the contracts which are largely dealt with by the employers. Point 26(1) was adopted as amended.

Other issues that had a lengthy discussion were on Point 26-2 (F) and Point 26-2 (K)

Point 28 refers to the standby period. The original text reads as follows:

“With respect to periods during which domestic workers are not free to dispose of time as they please and remain at the disposal of the household in order to respond to possible calls (commonly known as standby or on-call periods), national laws and regulations or collective agreements should regulate”:
(a) the maximum number of hours per week, month or year that a domestic worker may be required to be on standby;
(b) the compensatory rest period to which a domestic worker is entitled if the normal period of rest is disturbed by standby; and
(c) the rate at which standby hours should be remunerated.

The employers representative proposed an amendment to the introductory line to replace the word “regulate” with the words “provide guidance” which was strongly objected to by the workers representative arguing that the national laws are supposed to regulate and not only provide guidance.

The above amendments were not adopted after the intervention of the government members of the USA, Norway and South Africa and was resolved to have an in-depth discussion in 2011 ILC.

The provisions under Point 28 were adopted.

Point 38 refers to the termination of employment.

The original text reads as:

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

Amendments proposed by the employers’ and workers’ representatives were withdrawn and Point 38 was adopted.

New point after point 40

The Government member of the United States proposed an amendment to be added after Point 40 which read as follows: “Migrant workers should be entitled to repatriation at no cost on the expiration of the employment contract for which they were recruited.” The reason being to strengthen the language in Point 16 (2) and ensure that the cost of repatriation will not be borne by the domestic workers.

The above amendment opened another lengthy discussion among governments proposing further sub-amendments.
The Government member of the United States proposed an amendment after Point 40 which read as follows: “Migrant workers should be entitled to repatriation at no cost on the expiration of the employment contract for which they were recruited.”

Point 41 refers to additional measures to ensure the effective protection of migrant domestic workers rights. The original text reads as follows:

(1) Members should consider additional measures to ensure the effective protection of migrant domestic workers’ rights, such as:
   (a) a system of visits to households in which migrant domestic workers will be employed;
   (b) the development of a network of emergency housing; and
   (c) the provision of relevant information in languages understood by the workers concerned.
(2) Members that are countries of origin of migrant domestic workers should assist in the effective protection of the rights of these workers, by informing them of their rights before departure, establishing legal assistance funds, social services and specialized consular services and any other appropriate measures.

Point 41 was adopted with additional clauses after point B.

III. STRATEGIC INTERVENTIONS OUTSIDE ILC

To complement its strategic interventions in the ILC deliberations, MFA also employed strategies outside the ILC. With regard to its strategy outside the ILC deliberations, MFA’s activities comprised of organizing and participation in side events (i.e., workshops, dialogue and lobbying with Government delegations) and public events (i.e., public demonstrations, cultural presentations).

A. Lobbying with Government delegations

Given the responses of the Asian governments which pose a big challenge in driving this campaign, the delegation sought informal meetings with some Asia countries to share its own perspective and explore ways for NGOs and governments positively work together especially in moving the agenda for the protection of domestic workers. These governments included the following: Australia in behalf of the Asia-Pacific governments (ASPGA), Bangladesh, Philippines, Lebanon, Egypt, Jordan, Singapore, Malaysia, Japan and India.

B. Side Events

The ILC coincided with the 14th Session of the HRC. MFA took the opportunity to organize and co-organize and attend side events aimed at raising awareness of the issue at the international level and establish new contacts in preparation for 2011 engagement.

Throughout the entire period, the delegation was engaged not only in the ILC deliberations but also in the side events held within the 14th Human Rights Council Session.

A. Ensuring Victim-Centered Human Trafficking Responses Are Right- based in practice

03 June 2010, Room IX
12:00n.n. – 1:30p.m.

Co-organized by the Global Alliance against Traffic in Women (GATTW) and the Fransiscans International, the event sought to come up with recommendations to ensure that approaches to human trafficking are victim-centered and from a rights perspective. The report of the side event was important as migrant domestic workers also become victims of human trafficking.

Experts from the different sectors shared their own experiences in handling cases of human trafficking. Among others the following recommendations were put forward:

- Utilize the Human Rights Council (HRC) in addressing the issue. The Philippines and Germany developed Resolution 11/3, which stresses the importance of compensation for former VoT (victims of trafficking), in 2009. It speaks for the victims of trafficking and the Philippines will take the lead role in promoting the rights of the trafficked persons. The resolution will be submitted to the Human Rights Council in September 2010, aimed at inviting States to put solutions to anti-trafficking.

- Deal with the issue holistically, involving not only the victims but also their service providers and their advocates. Victims should be treated with respect as human beings and not as objects. Rehabilitation and reintegration should be given paramount importance. Policies on shelter houses should apply not only for the victims but also for social workers and service-providers. There should be criteria to be observed by service providers in providing services, e.g., confidentiality, privacy and professionalism.

- The need to involve victims in every stage of the process.
- Intervention should also focus on the process of recruitment.
- The need to work with law enforcement to ensure rights-based anti-trafficking responses.
• Cooperation is the key to combating human trafficking, thus the different actors need to be included in the process.
• Networking and provision of primary help.
• Mechanisms should be established to monitor the implementation of Conventions.

The cases of human trafficking is increasing in magnitude; there are already existing mechanisms but lack of information is one of the constraints; information campaign should be intensified and a holistic approach should be applied in catering to cases of trafficked children and women.

B. The rights of Domestic Workers : Challenges and Opportunities for International and National Advocacy Work and Networking
07 June 2010, Rooms 2 and 3
Ecumenical Center, 4:00 p.m. – 6:30 p.m.

The side event was organized by the German Commission for Justice and Peace/Kolping International, International Catholic Center of Geneva (CCIG) and Migrant Forum in Asia (MFA), which was aimed at discussing strategies beyond the 2010 ILC. It sought to critically examine the on-going deliberations at the ILC and explore possibilities of Church collaboration.

The event was very helpful in creating awareness and building alliances between and among CSOs and the Church. It also provided practical suggestions on how to advance the campaign. Sharing their experiences and perspectives on the issue were domestic workers from Asia and Africa, migrants’ advocates and the Holy See for the UN.

From the domestic workers point of view, enforcement of the existing labour laws remains a big challenge for them to exercise their rights as workers. In particular to migrant domestic workers, discriminatory and restrictive policies are one of the big challenges that they encounter. Such practices put them at a very disadvantage position because they could not exercise their basic labor rights. In most Asian countries, migrant domestic workers are not allowed to unionize and exercise their freedom of association. They also do not have rest days which also prevent them from joining community activities. Furthermore, it is always difficult to secure permission from the employer to attend Conferences which are necessary for domestic workers’ awareness. The names and labels attached to domestic workers are also equally challenging. The existing societal norm and structure is an issue that has to be examined to effectively advocate for the rights and legal protection of domestic workers. Domestic workers call on the support of the NGOs to help them in their fight for equality of treatment and support an instrument that governments would ratify and translate into national laws.

In terms of chances for advocacy and networking, the UN Committee on the Protection of the human rights of migrant workers (MWC) is closely monitoring the ILC process and has included the issue of domestic work at its 11th and 12th Sessions held in October 2009 and April 2010 respectively.

At the 11th Session of the Committee, a Day of General Discussion on Migrant Domestic Workers was organized to which a resolution was adopted for the Committee to come up with a General Comment for its 12th Session in April 2010. The document is still on its draft form and will be officially approved by the Committee at its next session in November this year. The General Comment provides guidance in translating the Convention on Migrant Workers (CMW) to address the specific situation of migrant domestic workers.

The Holy See supports a binding instrument for domestic workers. The Convention must consider the economic, social and legal factors that play a role in the protection of domestic workers. The Holy See will strive further so that Convention will not have the same fate as the Migrant Workers Convention (MWC) which was not ratified by a single receiving country.

Moving Forward

The side event came up with concrete proposals on how to move the campaign in preparation for 2011 ILC and the ratification phase.

• Create a group of experts to review the drafting process of the Convention with active participation from NGOs. Concrete legal expressions that address the concerns of all parties concerned should also be prepared.
There should be ‘unified contract’ stipulating important information like minimum wage, work hours, rest day for domestic workers. In Lebanon, a unified contract is now in place to protect the human rights of women migrant domestic workers. It was developed by a Lebanese Steering Committee in cooperation with the Office of the High Commissioner for Human Rights (OHCHR) and the International Labour Organization (ILO). (http://www.ohchr.org/EN/NEWSEVENTS/Pages/UnifiedContractLebanon.aspx)

- With reference to the CMW General Comment, the following were suggested: (1) careful examination of the content of the proposals, (2) identify ways on how to raise awareness about this (3) consultations should be organized to review the draft General Comment and (4) each organization could write letters of support advocating that the comment be adopted at the next session (5) secure endorsements from other special mandate holders like the Special Rapporteur on the Right to Health; Independent expert on the question of human rights and extreme poverty; Special Rapporteur on Contemporary forms of Racism

- Continue to organize trainings on the rights of domestic workers.

- Look into the reintegration aspect of migrant domestic workers who often return to their countries without savings.

- Secure a pastoral letter from the Holy Father recognizing the dignity of domestic workers, given that the Church is one of the biggest employers of domestic workers especially in Asia

- Reach out to women and gender networks as they have been invisible in the discourse. These networks would be strong allies in moving the campaign forward.

- Build solidarity with trade unions and push the migrants to get membership to Trade Unions. Lastly, Mr. Gois pointed out the need to build the campaign on social integration.

C. Pre-Viewing the 2010 Global Forum on Migration and Development (GFMD)

08 June 2010, UN Palais des Nations Room XXV

The issue of domestic work has always been highlighted in the GFMD and People’s Global Action on Migration, Development and Human Rights (PGA), a CSO parallel event to the GFMD. The discussion in this event gave the network a sense on how to leverage the campaign at the GFMD.

The GFMD is an inter-governmental forum that aims to address migration and development interconnections in practical and action-oriented ways. It is an informal, non-binding, voluntary and government-led process that marks the culmination of more than a decade of international dialogue on migration and development. The theme for this year’s GFMD is: “Partnerships for Migration and Development – shared prosperity, shared responsibility”.

GFMD 2010 will be held in Puerto Vallarta, Mexico on 8-11 November. As governments meet again to discuss about the nexus between migration and development, MFA together with Migrants Rights International (MRI) and Platform for International Cooperation on Undocumented Migrants (PICUM) and in cooperation with the Permanent Mission of Mexico in Geneva, organized a side event to discuss updates on the 2010 GFMD and opportunities for a meaningful CSO engagement.

Speaking as panelists in the side event were Michele Levoy (PICUM), Neha Misra from the American Center for International Labor Solidarity (ACILS) and Amb. Juan Jose Gomez Camacho, Permanent Mission of Mexico in Geneva.

Amb. Juan Jose Gomez Camacho shares Mexico’s preparations for the 2010 GFMD
Highlights of the Discussion

Michele Levoy provided the context of the discussion, provided a comprehensive review of the previous GFMD processes in terms of its substance and structure which prompted civil society organizations to create its own space through the PGA. The GFMD paradigm does not discuss the root cause of migration much less about human dignity of migration. CSOs feel that the States want to manage workers as tradeable commodities. It was also observed that the GFMD is restrictive of CSOs participation.

Neha Misra shared the trade unions’ involvement in the GFMD since 2006 and her own assessment of the process. Accordingly, it seems that the whole process is starting over again, thus, in view of improving the process, she put forward a recommendation for CSOs, trade unions and other stakeholders to reflect on the previous CSOs and see what has worked and what has not. She suggested bringing back to the process major stakeholders in the past like Mary Robinson and Sharan Burrows.

There is a need to prepare for 2013, when the GFMD goes back to the UN and how CSOs can go forward.

Ambassador Camacho shared his own view that though governments and civil society remain apart, it is more important to build an environment where both can interact in a more real, substantive, and meaningful way. GFMD, a government led process is not something Mexico can just change – not only because the forces are not there, but there are many reasons why it is good to keep it this way. He, however, acknowledged that the participation of CSOs is also important. He assured that his government is willing to listen and open for ideas on how to improve the process.

A common space (formally called interface) where governments and CSOs will have meaningful and serious interaction is in place. The whole idea of a common space is to build a whole political and conceptual effort around this notion to help the GFMD make a huge leap into these issues. However, he warned that whatever the successes or failures of this common space would be, it will be highly political.

countries are facing difficult political challenges domestically, including migration. Nevertheless, he assured that they can convey this sort of message, and can create a different environment that will allow governments and CSOs to build a space for more constructive international forum.

Amb. Camacho then shared with the audience the structure of the GFMD. Unlike the previous GFMDs, CSOs will have the chance to participate in the Opening Sitting of the Government Forum. Following the opening session will be a common space for CSOs and governments. Mexico is trying its best to make the common space more dynamic, vibrant, interesting and more conversational.

In terms of the concept and substance, managing migration will not be the focused of the discussion instead key notions on the following:

• Human development (deal with human beings as humans and not as goods – so they need human rights.
• Twin concepts: shared prosperity (to avoid this notion of South-North and who is gaining, etc.) and shared responsibility (all countries, when dealing with migration have to assume their own responsibility on this issue).
• Partnerships. This notion is absolutely necessary.

Amb. Camacho emphasized the need to work together and collectively solve the problem of migration and ensure that each country do not lose the best of its people.

Issues and Concerns raised

• Transparency

CSOs that have been monitoring the process raised

Participants attentively listen to the discussion
the question of transparency on how the CSD is being organized. Lack of information as to the status of preparations was noted.

- Visa application and constraints.

Amb. Camacho responded that they work closely with IOM to help in this aspect especially in those countries where there are no Mexican mission offices. Likewise, offices in Geneva and New York will be set up to address this issue.

- Spain’s withdrawal to host the 2011 GFMD

Amb. Camacho replied that Spain will not be able to host the next GFMD due to financial constraints.

One of the areas that government agrees on is to examine the result of the past forums. What are the goals that have been achieved? What are the targets for the coming years?

- Mexico’s stance on ratifying the UN Migrant Workers Convention

Amb. Camacho responded by saying that as Mexico is a signatory, it would like to see other countries do so too, but the Forum itself is a place for governments to exchange information. There is no particular area that we can use as platform for the promotion of the ratification of the convention. Mexico could help in that process within the UN. But it does not mean that we cannot use spaces to do so during the CSD. We can use other means, but not in the official process.

- Organizing the CSD and government Forum at two different venues and times

Organizing the CSD and the government Forum at two different times could significantly affect the budget. Some countries suggest that CSD should be done 6 months in advance. Amb. Camacho posed the question to the participants if this proposal is practical and feasible. He suggested the use of a common space to have some space on how CS can help support governments in addressing their migration challenges. We have to start working as of now with CS, so that by the time the GFMD in Mexico starts, there is enough information for such discussions.

- Irregular migration which leads to organized crimes

One issue Mexico is looking into is irregular migration and its consequences – an issue that affects not only Mexico but many other countries around the world. Why is it there? How can we prevent/solve this problem or make better channels? It is one of the areas that governments need to talk about. Bilaterally, Mexico discusses it with the US an the experience shows that it takes time, but it is a process. What is important is to discuss this topic and learn how international organizations and CSOs address these challenges.

- Linking the PGA to the CSD

The 2009 CSD recognized that a link with the parallel event (PGA) should be maintained. After the 2009 PGA in Athens talks between the Mexican government and PGA organizers have started on how to link the PGA to the CSD. Details on how the result of the PGA will be connected to the CSD are still being discussed.
D. The Culture of Impunity: Principal Challenge of Human Rights  
08 June, Palais des Nations

The event was organized by Migrant Forum in Asia, National Campaign for Dalit Human Rights-India, Pax Romana, Ruta Pacifica de las Mujeres and Vamos Mujer-Colombia.

Participants were representatives of different NGOs, human rights lawyers and other civil society movements.

A. Case Studies on the role of Human Rights Defenders and the Responsibilities of States

Dr. Prasad Sirivella Deva John Merina Prasa, National Campaign for Dalit Human Rights, India

Dr. Prasad spoke about the crimes against Dalit which could be attributed to the caste system.

Accordingly, there are over 93 crimes against Dalit a day, including three cases of rape and two murders. Authorities often connive with high caste wrongdoers to help them evade punishment. NGOs that press complaints about these events are often “greeted” with questions about the sources of their funding. Impunity is repeatedly attached to such acts.

Dr. Prasad added that despite the existence of laws on “impunity”, these acts continue. He observed that India has a very impressive act against atrocities against Dalits, including provisions for enforcement, yet many cases are not registered. While recognizing that others are registered according to less severe criteria than are warranted, the culprits only face minor punishments.

The police also register counter claims against victims, which becomes a basis for bargaining. As a result, only few perpetrators are convicted. Impunity is not limited to the national level.

Ms. Renuka Balasubramaniam, Malaysian Bar Council’s Sub-Committee on Migrants, Refugees and Immigration Affairs

Ms. Balasubramaniam spoke on the state of impunity in Malaysia. She referred to evidence of state collusion with those who trade in human beings across the Thai border and those who harm women. The activities of those who extract payments from undocumented migrant workers to allow them to remain often go unpunished.

Workers in detention for being undocumented are kept in degrading conditions with poor food. Their conditions of confinement lead to the spread of infectious diseases and malaria. The government justifies the horrible conditions in detention camps by arguing that they are a deterrent to illegal immigration and overstaying.

In cases where workers initiate civil action against employers, the Home Ministry often speeds up the process of deporting the workers so that the case cannot be pursued. (See Annex 9 for Ms. Balasubramiam’s presentation)

Ms. Olga Lucia Ramirez, Director of Vamos Mujer and Co-ordinator of Ruta Pacifica de las Mujeres, Colombia

Ms. Ramirez said that the governments of Peru and Colombia were the ones in South America that had dedicated the most resources to repression. There are repeated reports of successes in combating drugs production and sales, and yet little difference has been made to the volume of production and exports in total. Armed groups have a big impact on Colombia’s population. There is also inter-family violence and it demands positive government involvement.

When victims of violence go to court, they face numerous obstacles. The majority receive no support from the authorities. Many people have been kidnapped and four million live in poverty as a result of displacement. The government has been unable to restore them to their land. In some cases where people who had committed serious crimes against the people were held in prison, they have escaped
with the connivance of judges. There is a problem with macho violence which is not discouraged effectively. Fortunately, most Colombians want to change these conditions.

Mr. Pethuru Jesuthasan, a former investigation officer of the National Human Rights Commission and a former staff member of Caritas in the Northern Region of Sri Lanka

Mr. Jesuthasan focused his presentation on the situation in Sri Lanka since the last stages of the war there. He said that the government is still dogged by claims that war crimes were committed in the last stages of the war against the Tigers. The perpetrators of murders of critics of the government on this subject go about in public and are not detained.

Thirty-four journalists and media workers were killed in the period 2005-2009; fifteen have disappeared. Dozens of aid workers have been killed. There were three brutal attacks on the media last year, but the government did nothing to protect it. Overall, the situation is one of authoritarian harassment of political critics.

Mr. Francois Membrez, a Swiss lawyer

Mr. Membrez advocated the use of international law, including the use of international courts as in the cases of the Rwandan genocide in Bosnia. States must be responsible and act against those who commit crimes, including when violence is carried out by police forces.

It is fundamental that civilian victims of armed conflict should be able to go to court. Many witnesses are prevented from telling their stories before courts. The protection of witnesses needs to be at the heart of the system for seeing that justice is done.

Lack of order in court systems can mean police and politicians get away with crimes and are not held accountable. Prosecution of companies involved in human rights violations needs to take place.

The side event concluded with questions from the floor.

E. Stand With Us: Ending Exploitation of Child Domestic Workers
09 June 2010

The Anti Slavery International in collaboration with Children Unite organized a side event entitled “— ‘Stand With Us: Ending Exploitation of Child Domestic Workers’. It was attended by representatives from CSOs, domestic work groups and trade unions. The event was chaired by the President of the Human Rights Commission of Geneva and the International Trade Union leader from Philippines.

Three child domestic workers spoke in the programme. An 8-minute documentary film was also shown. The film and the testimonies of the domestic workers gave the participants a sense of the situation of children in domestic work. The children highlighted the importance of education, protection, visibility and contract for children in domestic work. They put forward the following recommendations:

- Don’t employ underage workers: No-one should be a domestic worker below the national legal minimum working age. Young domestic workers above this age (usually 14 or 15 years) can work, but their employment should be subject to special protection.
- Protect us at work! Written employment agreements are the best way of ending exploitation and getting young domestic workers back to education.
- Don’t stay silent! Young domestic workers need urgent protection from physical, sexual and emotional abuse. Local leaders and law enforcers should look out for and assist young domestic workers in abusive situations.
- Make us more visible! Often isolated, young domestic workers should be locally registered and given opportunities to organize.

The above recommendations were supported by all the participants.
F. Social Protection as a Human Right: Social Security of Migrant Domestic Workers and their families

13:00- 15:00, 09 June 2010
Room V, UN Palais des Nations

Social protection is a universal human right and essential for a life in dignity. It is guaranteed in Art. 9 of the Covenant on Economic, Social and Cultural Rights; also all major ILO- Conventions call for social protection of all workers including migrant workers. Yet, in most countries the “private” nature of the relationship between domestic workers and their employers does not provide for even minimal levels of social protection. Health insurance and maternity leave remain largely the individual responsibility of domestic workers and unemployment benefits or pensions are inaccessible altogether.

In response to this, Friedrich Ebert Stiftung (FES), Migrants Rights International and Migrant Forum in Asia (MFA) organized the side event with the following objectives:

- Discuss trends and issues concerning social security and migrant domestic workers
- Discuss updates in relation to programs and policies that safeguard migrant domestic workers rights despite the lack of global standard setting (e.g. standard contracts, etc.)

The side event sought to answer the following questions: Are these existing mechanisms been an effective tool and what continues to be the obstacles for their full implementation? Can the existing tools complement the standard that will be set by the ILO or be incorporated into it?

The speakers in the side event include:

- Ms. Anke Fuchs, FES Chairperson
- Mr. John Gee, Transient Workers Count Too (TWC2)
- Mr. William Gois, Migrant Forum in Asia (MFA)
- Ms. Ida Le Blanc, Union of Employees, Trinidad and Tobago
- Mr. Aldelhamad El Jamri, UN Migrant Workers Committee Chair

William Gois

Mr. Gois recognized that the event is very timely as the International Labour Conference is now discussing the proposed framework for convention for domestic workers. It is our historic event in the sense that the ILO is discussing protection for informal sector and this is very important given the fact that there is a demographic shift in the development world where we are anticipating an increase of the numbers of domestic workers migrating and working in other countries.

Mr. Gois also shared that majority of the governments voted to have a Convention supplemented by a Recommendation and that major issues being deliberated is social security. While recognizing that we have won the first battle, he stressed that the challenge now is to find the mechanisms that would ensure the best possible for social protection for domestic workers. He expressed hope that at the end of the side event, the group will be able to identify the challenges and gaps in relation to social security.

Aldelhamad El Jamri

Mr. El Jamri talked about the work of the Committee around the issue of domestic workers. He shared that the Committee is particularly interested in this issue because of the vulnerability of domestic workers. He emphasized that the issue is not just the concern of the Committee but of the State as well. Now that the ILO is discussing about the protection of domestic workers, it is important to find pedagogical solutions to this problem.

He also shared that in October, the Committee had a Day of General Discussion where a resolution was adopted for the Committee to adopt a General Comment on Domestic Workers on its 11th Session in April 2010. Domestic workers constitute 10% of the working population of which a large number are women and migrants.

In terms of social protection, domestic workers are excluded in national laws. At the UN level, the Migrant Workers Convention does not specifically mention migrant domestic workers. He further said that the vulnerability and difficulties faced by domestic workers warrant the need for a specific standard setting in the form of a convention.
He stressed that international conventions are essential because it provides for follow-up and enforcement mechanisms. Monitoring and implementation are also crucial once the said Convention has been adopted and ratified by State parties.

Given that domestic workers work inside the household, he added that the big challenge is how to apply inspection once the convention is implemented. How can they be reached when they are isolated and have no access outside or have no associations?

There should also be awareness raising on the rights of domestic workers. Recruitment agencies should be a target of the advocacy as well. The need for successful reintegration of migrant returnees should also be a priority. Reintegration is also a huge problem because migrant domestic workers do not have retirement benefits and pension. Laws to protect domestic workers should be in place in both sending and receiving countries. He also stressed the need to seriously attend to the vulnerabilities of women domestic workers as well as minors and children working as domestic workers.

_Ida Le Blanc_

Ms. Le Blanc began her presentation by introducing her organization, the National Union of Domestic Employees (NUDE) from Trinidad and Tobago. The N UdE started as a domestic workers union but eventually expanded membership to all low income workers. Ms. Le Blanc said that domestic workers in Trinidad and Tobago are covered by the minimum wage and maternity protections. This was made possible through the work of the unions.

Despite the above progress, however, domestic workers are still not covered by the Social Security Act of the country. She stressed the importance of being covered by this Act because it gives the domestic workers the legal right to sue their employers in cases of sickness, accidents and other work-related injuries. In practice, domestic workers are not registered in the national health insurance although deductions are made by their employers to their salaries. The union helps the domestic workers when they complain to the national health Employers Board in relation to claiming for their benefits. The concerns of domestic workers are not important or a priority for the government.

Ms. Le Blanc ended her presentation by reiterating the need for networking and cooperation among various actors: workers organizations, NGOs and migrant and local domestic workers groups as well as other stakeholders

_Mr. John Gee_

Mr. Gee began his presentation by sharing some realities in Singapore. In Singapore and in other countries that are similarly developed, the intention is for more circular migration, not for the workers to stay. Singapore is not alone for instance in relation to sending the worker back to their country when they are pregnant so the worker will not be able to give birth in the country where she is working. Most of the domestic workers are also not allowed to go out for fear that they might get pregnant.

The Employment Act of Singapore sets hours of work for workers in Singapore; they have rights, protection, hours of rest, maternity leave. The government is finding it difficult to include domestic workers in
this act. However, employers need to get insurance policy for domestic workers although it only covers 15,000.00 SD John also shared that before coming to Geneva he was contacted by an organization that needed to get treatment for 25 thousand dollars. There is a mentality for employers to get the lowest insurance for the workers and not a comprehensive insurance.

Another gap is when a worker has a pre-existing condition not covered by insurance. For workers for instance that have cancer whether they have it in Singapore or before coming to Singapore, it is not covered by insurance.

Open Forum

• Cooperation between sending and receiving countries in terms of providing insurance

Generally there is no cooperation in terms of providing workers with protection. It goes back to national policies.

• Work Permit

In Singapore, work permit can be cancelled unilaterally. Work permit is bound with the employer.

If it gets cancelled, the worker needs to go within the week. The government should set up a mechanism where migrants can leave the country without being deported.

• Inspection

In the Arab countries, home is a private and sacred place. Inspection would be a challenge because men usually conduct inspection. The Jordanian national commission for Women proposed for to the Ministry of Labour for the inspection to be conducted by a group of women and women can be good inspector.

• Freedom of movement

In the Middle East, domestic workers are not allowed to leave the house. Some countries include domestic workers in their law however implementation is still a question.

Domestic workers visa are tied to one employer, they do not have rights. Leaving the home of the employer means you are a runaway. This is a crime. Another problem is holding the passports and documents of domestic workers. It is rampant event even if it is illegal. The law is there but there is no implementation of this. There are a number of countries who send domestic workers in this region who are also against the convention.

• Social Security

Social security is a very important issue and must apply broadly to domestic workers. To echo what has been said above, the notion that works need to be deported when they get sick like a piece of machine, is a notion not just seen by employers regimes but also immigration regimes. It is important for us to look sincerely at the outcomes of these regimes, the rights to have rights. When we discuss this issue, we also need to discuss the access to these rights.

• Undocumented workers

The existence of undocumented workers could also be attributed to the fact that there are available markets for them in the South and North. There is always a political situation and demand for these workers- irregular and undocumented migrants. When we close the legal channel, illegal channels are created. There should be a link between the north and the south. There is a need to set new standards of work because it is very different from factory or a company. There is a need to find new ways to regularize this kind of work.

• Right to education

The right to education, the family depends on the workers income (MDW). If the worker gets injured and cannot send money home, they have to stop the education of their children. It is a reality.

• Contract

It is also important to see the contract of the worker as in most cases it is being put together by the employment agency. Domestic workers should be made aware of the content of the contract prior to signing. It should be noted though that having a contract is not an end in itself. What is important is to ensure that the contract is honored and meets labour standards.
Conclusion

Recognizing the challenges in the advocacy, the need to strengthen solidarity with other groups was emphasized. It was agreed that collaboration with trade unions should be continued.

The current text of the Convention is already strong and if this will be maintained until the next discussion, a good Convention awaits for domestic workers. The definition is very general which means it covers even undocumented workers.

It was also emphasized that since there are already existing mechanisms in other countries that protect domestic workers, monitoring of its implementation and enforcement should also be a key area of concern. The lack of implementation will not be solved by creating a new law. Improve and implement what already exists.

Underscoring the significant role of domestic workers in the care economy where they are brought inside the house to care for the family, children and elderly, participants were challenged to reflect on the situation of domestic workers who receive very little protection, rendered vulnerable by circumstances, and many times abused. When children witness how elders treat domestic workers, what values do we impart? When society does not give proper attention to and ensure the security of this marginalized group, how does this reflect on us? A convention for domestic workers is just but one concrete step to realizing our common dream of a future with equality, peace and justice.

G. The Protection of Workers in the United Arab Emirates
11 June 2010, Room X11 United Nations
Geneva, Switzerland

A side event was organized by the Government of the United Arab Emirates (UAE) headed by the H.E. Minister of Labour, Mr. Saqr Ghobash and his accompanying high level delegation from the Ministry of Labour.

The event showcased various policy developments implemented by the UAE Government to protect its workers including migrant workers. The event was again as the good practices as shared in this event could serve as a guide for governments in implementing the Convention.
Senior officials from the International Labour Organization (ILO) and International Organization for Migration (IOM), member delegates from the Gulf Cooperating Council (GCC) and other countries as well as NGO’s and TU’s participating in the 99th ILC session participated in the side event.

Three main developments were shared to the participants. These were the following:

- Wage Protection System (WPS)
- Development and Federal Occupational Health and Safety Regulations for the UAE Construction Sector
- Abu Dhabi Pilot Project

**Wage Protection System (WPS)**

Mr. Saqr Ghobash from the Ministry of Labour talked about the WPS as a system of salary payment for workers which was introduced by the UAE government beginning September 2009. WPS involves the transfer of salaries through few selected financial institutions which are authorized and regulated by the Government.

Under the new system, the employer can choose any registered agent to participate in the WPS. On receiving details about workers wages, the bank or institution, will send this information electronically to WPS. The WPS will send the salary file to the agent for payment, and the agent will then pay the employees. The system will also feed the Labour Ministry with the necessary data base and information of all salary and wage payments in the private sector.

The move was a follow up of Cabinet Decree No. 133/1, aimed at boosting transparency and stability in the labour market. The Decree also sought to protect the rights of workers in the country.

In terms of complaints, a redress mechanism is also available in the WPS, the “My Salary Complaint Service”, which allows workers to register their complaints in case of salary dispute. Penalties are in place if employers are unable to respond to the complaint.

A WPS Office in the Ministry of Labour was designated to ensure that the process is functioning smoothly. The workers will not be subjected to any deductions or charges to get their salaries.

**Development and Federal Occupational Health & Safety Regulations for the UAE Construction Sector: An ILO-supported Public-Private Partnership**

Mr. Mashida from ILO spoke on this issue. *The project was a joint undertaking of ILO and the UAE government.* The project was envisioned considering that the 43% of the UAE’s labour force is under the construction sector. The nature of the work exposes workers to both physical risks and health hazards. A proper system of Occupational Safety & Health (OSH) is imperative for the proper monitoring of safety standards within the construction sector.

In developing federal standards, the Ministry of Labour intends to build on the local government and private sector drafted codes and guidelines, while ensuring that they are consistent with international norms as lay out by the ILO convention 167; the ILO’s Occupational Safety & Health Management systems (OSHMS) and the ILO’s OSH training package.

The ongoing partnership of ILO Regional office and UAE government hopes to further provide assistance in the design & implementation of OSH information awareness campaigns; the delivery of training; and the development of capacity to monitor and enforce compliance with ensuing OSH regulations.

**Abu Dhabi Dialogue Pilot Project**

Ms. Michele Klein Solomon from the IOM outlined the need to manage labour mobility particularly within the Gulf region as it is home to millions of migrant workers from the Asian sub-continent. It is estimated that 3 million Asian migrant workers annually leave their homes to seek work abroad.

The management of the labour market can be undertaken through the formulation of appropriate legal and policy frameworks and the development of administrative structures and on-going capacity building.

The Abu Dhabi Dialogue Pilot Project was a result of the 2008 two-day Ministerial Consultation in Abu Dhabi where it came up with an Abu Dhabi Declaration. The Abu Dhabi Declaration stresses that
both countries of origin and destination and more importantly the workers benefit when their rights are recognized and protected.

The Declaration recognizes 4 key stages faced by the temporary contractual worker namely:

- Recruitment and pre-departure preparation in the country of origin
- Installation and employment in the country of destination
- Return preparation in the country of destination
- Return and re-integration in the country of origin

To test these ideas in a measurable way the Governments of UAE, India and the Philippines took the initiative to set up a pilot project to identify effective practices in the management of the temporary contractual employment cycle. The respective governments will be receiving expert inputs from the Arab Labour Organization, the ILO and IOM. One thousand five hundred workers from the Philippines and India working in different sectors such as construction, hospitality and health care will be participating in the pilot project with the overall goal to test a range of practical measures to improve the quality of life and work of contractual workers.

Ms. Solomon highlighted three specific innovations of the project:

- The formulation of an integrated worker Orientation or Handbook to align pre-departure orientation with post arrival seminars in the UAE.
- The setting up of web-based attestation system between India & the UAE to ensure transparency of employment contracts and thereby stamp out contract substitution when the worker reaches the country of destination.
- The three governments are also working closely to test the implementation of low costs loans and micro-finance assistance to reduce the costs of migration for workers and to facilitate their reintegration. Bangladesh was specially invited to join this initiative, since Bangladeshi citizen Mr. Mohammed Younus and the institute created by him: the ‘Grameen Bank’ is recognized globally as being the pioneer in micro finance. Micro finance is also acknowledged as an effective grassroots’ program to alleviate the endemic poverty prevalent in some Asian countries.

Wage Protection System (WPS) is a system of salary payment for workers which was introduced by the UAE government beginning September 2009. WPS involves the transfer of salaries through few selected financial institutions which are authorized and regulated by the Government.
A. Swiss Trade Unions Rally
08 June 2010, Zone Rue du Mont Blanc (opposite to Gare Cornavin)
Geneva, Switzerland

In solidarity with the Swiss trade unions and domestic workers who are currently campaigning for a statutory minimum wage, MFA and ADWA co-hosted a public rally together with the Communauté Genevoise d’Action Syndicale (CGAS) and the International Domestic Workers Network (IDWN). The rally was also designed to raise the awareness of the public of the on-going negotiations at the International Labour Conference and the need for a Convention for domestic workers.

To start off the programme, a giant apron produced by the members of the Asian Domestic Workers Network (ADWN) containing 3,500 patches symbolizing the 3,500 demands of domestic workers, was unfurled.

Providing solidarity messages were:

Sharan Burrow, President, International Trade Union Confederation (ITUC)
Christina Stoll – Communauté genevoise d’action syndicale (CGAS)
Giangiorgio Gargantini – Syndicat Interprofessionnel de Travailleuses et travailleurs (SIT)
Jamshid Pouranpir – Syndicat UNIA
Sonu Danuwar, President, Nepal Independent Domestic Workers’ Union (NIDWU), President of the Asian Domestic Workers Network (ADWN) and Vice Chair of the International Domestic Workers Network (IDWN)
Sringatin, Asian Migrant Domestic Workers Alliance (ADWA)

Sharan Burrow did not make it to the rally but sent her message which was read during the short program. (See Annex 10 for Sharan Burrow’s speech)

In Asia, two domestic workers (local and migrant domestic workers) gave their messages. Sonu Danuwar spoke on behalf of the local and child domestic workers while Sringatin for the migrants.

Both spoke about the sufferings and ordeals faced by domestic workers and the need to organize and unionize.

They also shared their reason for coming to Geneva: to get their voices heard and fight for their rights as human beings, as women, and as workers. The two reiterated the need for decent work and dignity for domestic workers and to support an ILO Convention for Domestic Workers.

B. Poster Exhibit, 09 June
Maison De Association, Geneva, Switzerland

On 09 June 2010 around sixty posters from Asia, South America, Africa, USA and the Middle East were unveiled in a Poster Exhibit entitled Rights and Recognition of Domestic Work. The exhibit showcased domestic work posters campaigning for decent work for domestic workers.

The exhibit was attended by domestic workers groups, migrants’ organizations, trade unions and other civil society organizations involved in the domestic work campaign. UN Migrant Workers Committee Chair, Aldelhamid El Jamri, Professor Prugl of the Graduate Institute, and Sr. Jeanne Devos, National Domestic Workers Movement’s Coordinator who pioneered the development of a movement in India, were also present to show their support to the domestic work campaign.

El Jamri thanked MFA for organizing the exhibit and for all the work that it does in pushing the agenda of
migrant workers. He shared that he has been working with Europe and Asia and now with Latin America and Asia. Working with a transversal knowledge and with more experiences from many other people. He expressed his appreciation to see the migration work in Asia. He welcomed the group to be part of the Committee especially as civil society organizations. He said the question of human rights of migrant workers is a concern for all of us and not only of associations working on migrants’ issues. He encouraged everybody to continue defending the rights of migrant worker, especially domestic workers.

Prof. Prugl expressed her thanks to MFA for the invitation and congratulated the group for bringing the issue to the ILO. She said a Convention is a long struggle. She co-related the issue on production and reproduction, referring to Marxist theory; work in factories is more recognized than those done at home.

Carework is regarded as something without a monetary value and social protection. It is a gender issue, where women stay at home to do the work while men work outside the home. She continued by sharing with the group that in the past 20 years carework has achieved an increasing recognition in the international level. One case in point was the passage of the Homework Convention in 1990 which was also considered as an extremely contentious issue as an informal and feminized Convention.

Prof. Prugl sees the standard setting for domestic workers a tremendous accomplishment. “It moves the whole large issue of recognizing unrecognized workers, of recognizing feminized workers, a work that has always been thought of as not a real work, it brings the issue back at the international level; it is a major step to see that happen”, Prof. Prugl continued.

She also shared her own perspective on what makes the Homework Convention different from the Convention on Domestic Work in terms of support. The presence of large majority of migrant domestic workers could have contributed to the developments on recognizing the unrecognized work of women. She believed migrants struggle is the new frontier of the issue.

Prof. Prugl challenged everybody to reflect on how we view domestic workers and how our current organizations tend to put certain boundaries in our dealings with people where those outside are considered inferiors or different. This is something that we need to shake up.

Migrant workers are not just citizens of one state but they are citizens of the world. Migrant workers are cosmopolitan; they move; they are human beings who deserve to be treated equally. For migrant workers, it is indeed a tremendous struggle.

Prof. Prugl ended her message by telling the group that a Convention for Domestic Workers is not an end itself and should not prevent us from continuing the work that we do in the ground. The campaign should continue and ensure that the Convention is implemented the way it should be. “A Convention is a major accomplishment but it certainly does not substitute for the work that you do in the ground. It cannot be anything but another organizing tool that you have already. Even if your governments ratify it, you have to fight still for it to be implemented in a way that it should be implemented”.

Sr. Jeanne for her part shared with the group the humble beginnings of NDWM 25 years ago and the current work that it does. The movement started
also because movements.

Sr. Jeanne also shared what makes a movement building different from other approaches.

Sr. Jeanne emphasized the sense of ownership of their problem and their situation that makes a change in physical approach. Seeing the strength of women opposing the power that has always overpowered them is something a movement is able to build. Awareness raising is an integral part of the process. Helping domestic workers recognize their rights also contribute to the empowerment of domestic workers.

To date, 7 States in India passed domestic work bills because of the strength of the movement. Sr. Jeanne also stressed the important role of media in elevating the campaign. Few years back, domestic work used to be an issue that never reaches the fancy of the media.

With regard to the Convention, Sr. Jeanne believes that a Convention is extremely important; however it should not undermine the presence of domestic work movements. A Convention with or without ratification, if we have a strong movement we have a key; our groups have the key to approach local decision making groups and remind them of the Convention. Sr. Jeanne expressed her fervent hope that the government of India will understand the ILO convention.

Sr. Jeanne encouraged the group to work in movement line where it recognizes a participatory approach, a long process but which on the long run has fantastic result. “It is only a movement approach that can make a big change. She ended her message by sharing a poem written by a domestic worker:

My life is like a rainbow;
I get both the rain of pain and denial;
But now also the sun of strength, the National Domestic Workers Movement

Solidarity messages were also heard from three domestic workers from IUF and the International Domestic Workers Network (IDWN).

Guillerma Castellanos thanked everybody for being present in Geneva as this campaign calls for a unified force. Guillerma expressed the need to have human rights for all domestic workers in the world, not only as a concern of women but also their children.

She said the Conference could be used as a venue to inform everyone that we need to put an end to what is happening to domestic workers. Guillerma ended her message with a song which she wrote.

Ira de Chile shared briefly how she started at the age of 14 and learned about her rights through her association with Catholic workers which inspired her to organize domestic workers. Ira stressed the importance of joining together in this campaign and further strengthening networking and coordination to finally win this battle.

Marcelina Bautista from CONLACTRAHO shared her own perspective on how important it is for us to have a unified movement in order to drive the campaign. She also recognized the need to have a dialogue with governments and employers as they are very crucial in the process.
Rocio from Ecuador affirmed the views raised by the rest of the speakers. She reiterated the importance of working with people who are advocating for the rights of domestic workers. The work that has to be done is also important in cultural terms because we are talking about people who talk about domestic work and continuously fight for the rights of domestic workers.

C. “An Evening to Celebrate the Recognition of Domestic Work as Work
10 June 2010, 5:00 -8:00 P.M.
Broken Chair Square

As part of MFA’s strategy, MFA also went outside of the Sessions and organized a public event to celebrate the overdue protection for domestic workers. The event was very timely because on 4 June the governments voted for the adoption of a Convention supplemented by a Recommendation. The night was filled with speeches and musical performances by domestic workers rights groups and supporters. Endless chants like “We are people, we are not machines”, “We are workers, we are not slaves’ also filled the air. The audience also expressed their solidarity by putting their hand print in the banner.

Eminent persons like Abdelhamid El Jamri, Chair Person Migrant Workers Committee, Ambet Yuson, General Secretary, Building and Woodworkers International (BWI), Ida le Blanc, General Secretary of the Union of Employees, Trinidad and Sam Gurney, Policy Officer of ILO Governing Body came to express their solidarity to domestic workers.

El Jamri thanked MFA and all other organizations for its continuing efforts to fight for the rights of domestic workers. He encouraged everybody to work together in this struggle and give the domestic workers the protection that they need.

Ida Le Blanc spoke about their struggles. She asserted that we need to seek justice for domestic workers and that we need to assert the rights of domestic workers as workers.

Ambet Yuson shared that BWI also represents migrant workers particularly those in the construction sector. He encouraged the audience to build a strong solidarity and alliance among TUs, domestic workers and NGOs. He also said that BWI strongly supports the ILO Convention on Domestic Work. If governments do not support the adoption of the Convention, BWI will give them a yellow card just like their current Yellow Card Campaign for FIFA for undermining the most elementary principles of the ILO Decent Work. At the International Labour Conference (ILC) in Geneva, the BWI were protesting against the working conditions during the construction of the stadiums for the FIFA 2010 World Cup. The Yellow Card serves as a warning to FIFA to improve the working conditions of construction workers. He said that if FIFA will not take serious steps to improve and promote ILO core labor standards, BWI will give them a Red Card.

Sam Gurney shared to the audience that TUC-UK has been fighting for so long to get domestic workers to be part of the ILC agenda. Given the gains that we are getting from the ILC discussion, he encouraged the audience to carry on the campaign. An ILO Convention can do something; it is a template to prove that domestic workers are workers.
We need to assert that domestic workers should be organized and unionized. He added that we need to intensify the work with the NGOs. The next steps are equally critical. We need to ensure that the voice of domestic workers is heard.

Domestic workers around the world also gave their solidarity messages and appealed to the whole world to give the long overdue protection for domestic workers and support the passage of an ILO Convention for Domestic Workers in 2011.

Sringatin, a migrant domestic worker in Hongkong spoke about her hope that the Convention should be for the best interest of the domestic workers.

Marissa Begonia, a migrant domestic worker in London and a member of the Trade Union Congress (TUC) UK and Justice for Domestic Workers (J4DW) spoke about the importance of organizing domestic workers. Lobbying international conferences and dialogue are also important platforms that domestic workers must be involved to be able to speak out and fights for their rights and be a trade unionist.

Marissa also shared J4DW’s vision for continuing the campaign for domestic workers, asserting that domestic workers are first and foremost human beings; they are mostly women and mothers who deserve to be respected and should not be treated as slaves.

Guillerma Castellanos, Coordinator of the San Francisco Day Labor Workers’ Program shared that her organization is part of the National Domestic Workers Alliance (NDWA), a network of thirty domestic workers organizations around the US. NDWA is currently campaigning for the passage of the domestic workers bill of rights. The bill demands for the basic rights of women; the right to sleep, to have rest time, to have vacation days etc. and that they respect domestic work as equal to any other kind of work. In California, they work in a state level by passing resolutions.

Inspired by the presence of the big crowd, Guillerma spoke with so much energy. She added, “today, we are making history; that finally governments and employers have finally realized that domestic workers are equal with other workers and must be treated with value, respect and equality. Everybody must be
proud because we are making a history and we are leaving a legacy where governments have finally agreed to adopt a Convention supplemented by a Recommendation. Millions of domestic workers will be able to get out of their shadows, of the horrible situation and violations that they are facing”.

Concluding her message, Guillerma encouraged all domestic workers to organize at all levels; to work locally and internationally to ensure that there will be no woman who does not know her rights and that domestic workers are part of making this change. She also emphasized the need for us to commit to making social change. She recognized that the challenges ahead would be very difficult but she strongly believes that domestic workers will win the fight because what they demand are only basic rights. “Yes, we can! Yes we can! Long live the domestics workers around the world, you are not alone, we’re history, end slavery”, Guillerma’s parting message.

Fiama, a child domestic worker from Peru thanked the organizers for allowing her to speak in the program and for recognizing the concerns of child domestic workers in the agenda.

The event ended with songs from a Filipino social activist and performer, Noel Cabangon.

Other Meetings

A. MFA Dialogue with the Special Rapporteur for Migrants, Dr. Jorge Bustamante
June 1, 2010, 2.30-4.00pm
Palais Des Nations E-3023

On 1 June, MFA delegation met up with the SR for Migrants for updates of the SR’s activities and plans for the 20th Year Celebration of the UN Migrant Workers Convention.

The agenda is as follows:

• Comment on the report of the SR to the Council (presented on the 31st May)
• Reflections from the country visit to Japan earlier this year.
• Plans for the 20th year Celebrations of the MWC
• GFMD in Mexico
Plans of the SR in relation to the mandate for the remainder of his tenure.

Highlights of the Dialogue

1. A range of issues and concerns were raised and shared by the participants focusing on Dr. Bustamante’s report on health and housing for migrant workers. These included the following:

• Housing arrangements in HK where migrant domestic workers live in the houses of their employers. This arrangement leads to abuse especially if housing is tied to visas. More so, the set up may exclude migrant domestic workers from statutory minimum wage because they live with their employers and receive “free” housing and food.

• Lack of compulsory medical insurance for migrant workers in Singapore and Oman where migrant domestic workers do not get immediate medical treatment because of the prohibitive medical costs. Issues of repatriation of migrant workers who have contracted TB or HIV and other infectious diseases were also raised.

Dr. Bustamante, who is also the UN Special Rapporteur on the Human Rights of Migrant Workers, accepted the
• Denial of appropriate housing for pregnant migrant women. This issue is very evident among Nepali women who ended up returning to the country because of their conditions.

• Abandoned and stateless babies in Bahrain and UAE whose numbers had risen in the recent past. Women workers discovered to have had these babies used to be imprisoned, but they aren’t criminalized any more. Abortion is not allowed in Dubai and Bahrain. For fear of being deported, oftentimes, babies are usually left in boxes, with bedding and small gifts, very soon after birth. Request to visit the GCC countries was put forward.

In response to the above issues, Dr. Bustamante encouraged the group to lodge a complaint to the SR’s office in Geneva so that the SR can raise these issues to States parties for clarification and information. He, however, reminded the group that in doing such, NGOs should ensure that local or domestic avenues have already been exhausted.

He also commented that he is very interested to visit the Gulf countries. Unfortunately, no Gulf country has issued an invite to him yet. He encouraged migrant rights groups to take this up as a challenge so he can visit the Gulf before his term ends next year.

In addition to the SR’s intervention, Maysoon Qara from the Jordanian National Commission for Women called for the establishment of a framework that would allow migrant domestic workers to check in with the embassies on a regular basis to ensure better protection in countries of destination.

MFA’s Regional Coordinator, William Gois, said that there are large concentrations of Asian migrants in the Middle East. Abuses and exploitation against them take place on a significantly high scale in the region but there is not much pressure from the international community to stop these abuses and hold the host countries accountable. There is an urgent need to bring to the HRC the situation of migrants in the Middle East and to address the issues that confront them.

2. Specific to Japan, Ralph Hosoki from Solidarity with Migrants in Japan (SMJ) elaborated on recent developments in Japanese NGOs’ engagements with the UN concerning two issues of human rights violations against migrants. The first pertained to industrial trainees and technical interns in Japan. Policy revisions to the Industrial Training and Technical Internship System (ITTIS) are scheduled to come into effect this coming July, thereby making technical interns eligible for protection under the Labor Standards Law, starting immediately after they commence work in Japan. Issues arising from these policies were also discussed.

Hosoki also shared the recent visit of High Commissioner for Human Rights, Ms. Navanethem Pillay’s recent visit to Japan and her concern over the abusive nature of the (ITTIS). The second issue pertained to the recent exclusion of North Korean schools from the free high school tuition bill. National security concerns with North Korea was said to be the reason for such exclusion.

Additionally, reference was made to similar concerns held by members of the CRC during the first day of the Japanese government’s third CRC report review on May 27, 2010 where it was noted that the absence of an independent national human rights institution. Hosoki requested that these pressing issues be
considered in the SR’s upcoming country visit report.

In response, Dr Bustamante expressed interest in differences and parallels between Japan’s Industrial Training and Technical Internship System and South Korea’s Employment Permit System (EPS). The SR also recommended that Japanese NGOs utilize the Universal Periodic Review (UPR) to pressure the government to improve policies to protect migrants’ rights.

Plans for next year

Dr. Bustamante shared that there were no definite plans yet, but suggested that it might be good to mark the 20th anniversary of the Migrant Workers’ Convention.

B. Arab Labor Organization Meeting
01 June 2010, ILO – Geneva

The meeting was organized to discuss the situation of migrant domestic workers in the Middle East and to possibly come up with recommendations to protect them. In attendance were government representatives from the Gulf and Middle East like Lebanon, Syria and Jordan and CSOs and other international organizations working on the issue of migrants.

Representing MFA were Hessen El Sayah from Caritas Lebanon Migrant Center (CLMC) and Maysoon Qara from the Jordanian National Commission for Women.

Two main issues were discussed at the meeting: granting nationality to migrant workers and human and labour rights of domestic workers. At the end of the meeting, the following decision points were reached:

- The Gulf countries were requested to legislate laws for migrant domestic workers.
- Because of the temporary nature of migrant domestic workers, Gulf countries would still encourage deployment of domestic workers; however, granting them with nationality will not be an option.
- The Arab countries are also open to receiving migrant domestic workers and they are willing to negotiate about their rights.
- The final decision taken was they will support Recommendation and not Convention. The Convention will require a lot of rights and commitment as compared to a Recommendation which is meant to provide guidance to the governments. However, they have assured that these recommendations will undergo careful scrutiny and study.

C. Human Rights Watch Briefing on Slow Reform “Protection of Migrant Domestic Workers in Asia and the Middle East”
02 June 2010, HRW Geneva Office

Human Rights Watch (HRW) invited the MFA delegation to a briefing meeting for its recently published report entitled “Slow Reform: Protection of Migrant Domestic Workers in Asia and the Middle East”. See Annex 1 for the full report. HRW’s Nisha Varia and Jo Becker were present for the said briefing.

Varia shared to the group that the objective of the meeting was to present the report which would be a good advocacy material in driving the campaign for domestic workers and protection of all migrant workers. She added that it is also an opportunity to further collaborate with HRW.

The report reviews conditions in eight countries with large numbers of migrant domestic workers: Lebanon, Jordan, Saudi Arabia, Kuwait, the United Arab Emirates, Bahrain, Singapore, and Malaysia. The report surveys progress in extending protection to domestic workers under labor laws, reforming immigration “sponsorship” systems that contribute to abuse, ensuring effective response by police and
courts to physical and sexual violence, and allowing civil society and trade unions to organize.

Despite these positive developments, Nisha reported that they are slow in implementation and they tend to deal with specific issues rather than attempt any radical revision of policy. A number of HRW reports are planned for the coming year, including on specific issues in Kuwait, Bahrain and Lebanon.

The discussion focused more on the Middle East and reflected the questions coming from the West Asia delegation. The delegation was concerned about the bloc of anti-convention votes presented by the GCC countries. This may not change over the coming year, but it does not mean that there are no positive initiatives being carried through in the region, as acknowledged in the report. Groups around the region are working on making comparisons between the different policies adopted, with an accent on promoting positive examples.

A number of questions were raised, such as whether GCC countries will bring in a network for exchanging information on blacklisted workers. Contentious issues raised in the ILC were also noted like scope of the instrument, employment contract, payment in kind, minimum age and child domestic labour.

Given the context of GCC countries and the situation of NGOs in the said region, Nisha reminded the group that collaboration with HRW should be something that will not jeopardize the work of the organizations. Nisha added that HRW has been receiving critiques from governments for its alleged bias and one-sided reporting.

Specific to the ILC, Nisha shared her own perspective about the ILC discussion. She said that Asian countries would benefit more if governments will adopt a Convention and Recommendation. She encouraged the delegation to help them convince that these governments will eventually benefit from the instrument.

Crucial areas of the proposed instrument were also shared to the group. These include the following:

- The Proposed Conclusions do not specify or require employment contract
- Payment-in-kind may not be fully eliminated but certain percentage should be required
- Minimum age
- Abolition of child labor; specify protection for children e.g. regulation of work hours
- Obligations of the governments
- Inspections which receive a considerable resistance from employers and governments.

HRW and Anti-Slavery International (ASI) came up with a petition which they will give to the GCC countries.

D. CSOs-Domestic Workers Coordination Meeting
06 June 2010, IUF Office
Geneva, Switzerland

The meeting was called to discuss about the on-going deliberations at the ILC and discuss CSOs strategy on how to lobby with the governments and employers given the on-going debate. It was attended by members of IDWN, MFA, ADWA, the IWG-DW and friends from ILO ACTRAV. The following decision points were reached:

- Put the demands very high to maintain and achieve what is currently in the Proposed Conclusions and try to build on the existing text. Compromise with the governments was also emphasized even if they share our concerns and make some concessions to keep the main provisions in the text and get a Convention. A Convention gives domestic workers sufficient rights to start negotiating for more rights.

- Limit the possibility of exclusion taking into account that governments cannot exclude without consultation with a trade union organization including domestic workers.

- The need to put a strong reference to the employment relationship was also emphasized. This is very important for two reasons. First, employment relationship provides domestic workers with rights. As soon as they have employment relationship, they have the rights and penalties that go with it. Second, a relationship between workers and others is also established.
• The need to critically examine the arguments made by the governments and identify the allies and target of advocacy. Given these, building some contacts and exploring avenues to approach them before the 2011 ILC is a must.

• With respect to Asian governments, it was suggested that the Philippines take the initiative to talk to its neighboring countries although this must be very challenging because ASEAN works by consensus. The support of other groups from other countries to devise a creative way of pushing the Philippine government to step up and influence other ASEAN governments was suggested.

• In lobbying with the employers, it was suggested to get to know what positively they believe in. This would give the group a concrete base for where to agree.

• In terms of positioning, there is a need to assert that domestic work is not only a labour issue but also a human rights issue. The need to show the legitimate worker status of domestic workers was also stressed.

• While considering the above strategies, the need to already look into the ratification phase was discussed. We need to push for an instrument which governments would ratify and implement in their respective countries. We also need to consider that there are divisions within the government and the region. Creative lobbying would have to be done.

In terms of concrete activity, the suggestion was to organize a global march for domestic workers prior to the 2011 ILC.

The meeting ended with a song “We Shall Overcome” and some chants which gave everybody fresh energy and renewed hope.

E. IDWN Feedback Meeting
11 June 2010, 3:00 P.M.

On 11 June, IDWN called for a feedback meeting to share its own assessment of the whole process and to brainstorm for next year’s ILC. The following were discussed in terms of moving forward the campaign.

• Issue a collective report from international domestic networks what transpired in the ILC, what we have done and our own reflections.

• It was emphasized to include domestic workers in all phases of the campaign. Educate domestic workers so they can speak out and help them better understand the issue and procedure like the ILC. Intensive preparations should be done and make them understand that the process is excruciating but it is critical that everybody is present all sessions. Commitment and dedication are needed. It is also important to organize them. In doing so, key people should be involved in the process i.e. NGOs, workers, trade unions etc.

• Assert that domestic workers are included in the country delegation next year. Pressure should also be put to the governments to ensure that the delegation
is composed of people who know the depth and breadth of the issue. It was observed that most of the members of the country delegations are not directly involved with the issue. This became a problem because they could not address the concerns of the domestic workers and advocates during side meetings.

- Map out best practices in different countries which could be a good lobbying tool in convincing the governments to create mechanisms at the national level to protect domestic workers.

- Review the Committee Report especially the arguments of the governments. This will help us refine our position. EU and the Asian blocks are both a challenge to the campaign.

- Compilation of stories. It is important to have strong organizations that are capable of running a strong advocacy. We need to share our stories from all our countries even before the next year’s conference so that we can show our own governments that we represent all of this, and show them the face of the reality on the ground all over the world. Jennifer Fish will write a book on the stories of domestic workers. IUF suggested three main areas which we need to look into: working time, migration, health and safety and labor inspection. IUF is doing a pilot study on health and safety for domestic workers in Tanzania. A friend from ILO Geneva will help on how to introduce labor inspection for domestic workers.

- Come up with an interactive website. This is very important to be able to continue the solidarity and coordination among groups. This is necessary to show to the world that domestic workers groups are united in this campaign. One big stumbling block for this would be the funding.

- Further develop spokespersons. We also need to have factual data aside from the stories of domestic workers. This will help domestic workers to respond to the governments and employers from the other contexts. In Latin America, they are compiling human rights abuses against domestic workers.

- Intensify work at the national level and monitor the interventions governments made during the ILC. Allies and target of advocacy should have been identified.

- Create noise and further strengthen networking

- Intensify media work and learn from the experiences of other networks in utilizing media as a tool in driving the campaign.
The Outcome Document
Proposed Conclusions
Adopted at the 99th Session of the International Labour Conference

A. Form of the instruments

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

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

B. Definitions

3. For the purpose of these standards:

(a) the term “domestic work” should mean work performed in or for a household or households;

(b) the term “domestic worker” should mean any person engaged in domestic work within an employment relationship;

(c) a person who performs domestic work only occasionally or sporadically and not on an occupational basis is not a domestic worker.

C. Proposed Conclusions with a view to a Convention

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

(a) mindful of the commitment of the International Labour Organization to promote decent work for all through the achievement of the goals of the ILO Declaration on Fundamental Principles and Rights at Work and the ILO Declaration on Social Justice for a Fair Globalization;

(b) recognizing the significant contribution of domestic workers to the global economy, which includes increasing paid job opportunities for workers with family responsibilities;

(c) considering that domestic work continues to be undervalued and invisible and is mostly carried out by women and girls, many of whom are migrants or members of historically disadvantaged communities, and who are therefore particularly vulnerable to abuses of basic human rights and to discrimination in respect of employment and working conditions;

(d) further considering that, in developing countries with historically high rates of unemployment, domestic workers constitute a significant proportion of the national workforce, are predominantly nationals drawn from the ranks of the unemployed and are among the most marginalized and vulnerable workers;

(e) recalling that international labour Conventions and Recommendations apply to all workers, including domestic workers, unless otherwise provided;

(f) noting that there are international labour Conventions and Recommendations which have particular relevance for domestic workers, such as, where appropriate, the Migration for Employment Convention (Revised), 1949, the Migrant Workers (Supplementary Provisions) Convention, 1975, the Workers with Family Responsibilities Convention, 1981, the Private Employment Agencies Convention, 1997, the Employment Relationship Recommendation, 2006, as well as the ILO Multilateral Framework on Labour Migration;
(g) recognizing the special conditions under which domestic work is carried out that make it desirable to supplement the general standards with standards specific to domestic workers, to enable them to enjoy their rights fully, taking into account the right to privacy that each domestic worker and each household enjoys;

(h) recalling other relevant international instruments, such as the Universal Declaration of Human Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the United Nations Convention against Transnational Organized Crime and in particular its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, the Convention on the Rights of the Child and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

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

(a) categories of workers who are otherwise provided with at least equivalent protection;

(b) limited categories of workers in respect of which special problems of a substantial nature arise.

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

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

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

(a) freedom of association and the effective recognition of the right to collective bargaining;
(b) the elimination of all forms of forced or compulsory labour;
(c) the effective abolition of child labour; and
(d) the elimination of discrimination in respect of employment and occupation.

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

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

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

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

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

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

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

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

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

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

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

(3) Periods during which domestic workers are not free to dispose of their time as they please and remain at the disposal of the household in order to respond to possible calls should be regarded as hours of work to the extent determined by national laws or regulations, collective agreements or any other means consistent with national practice.

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Each Member should take measures to:

(a) establish criteria for the registration and qualifications of employment agencies, including for publicly available information on any past violations;

(b) ensure regular inspections of employment agencies to ensure compliance with relevant laws and regulations, and institute significant penalties for violations;

(c) provide accessible complaint mechanisms for domestic workers to notify authorities of abusive practices; and

(d) ensure that fees incurred by agencies are not deducted from the remuneration of domestic workers.

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

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

D. Proposed Conclusions with a view to a Recommendation

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

24. In taking measures to ensure that domestic workers enjoy freedom of association and the effective recognition of the right to collective bargaining, Members should:
(a) identify and eliminate any legislative or administrative restrictions or other obstacles to the right of domestic workers to establish their own organizations or to join the workers’ organizations of their choice, and to the right of organizations of domestic workers to join workers’ organizations, federations and confederations;
(b) ensure the right of employers of domestic workers to establish and join organizations, federations and confederations of employers of their choosing;
(c) take or support measures to strengthen the capacity of organizations of domestic workers to protect effectively the interests of their members.

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

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

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

(2) The terms and conditions of employment should include the following particulars, in addition to those provided for in Point 10:
(a) the starting date of the employment;
(b) job description;
(c) paid annual leave;
(d) daily and weekly rest;
(e) sick leave and any other personal leave;
(f) the rate of pay for overtime work;
(g) any other cash payments to which the domestic worker is entitled;
(h) any allowances in kind and their cash value;
(i) details of any accommodation provided;
(j) any authorized deductions from the worker’s wages; and
(k) the period of notice required by either the domestic worker or the employer for termination.

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

(2) Members should consider developing practical guidance in this respect, in consultation with representative organizations of employers and workers and, in particular, organizations representing domestic workers and their employers, where they exist.
29. With respect to periods during which domestic workers are not free to dispose of their time as they please and remain at the disposal of the household in order to respond to possible calls (commonly known as standby or on-call periods), national laws and regulations or collective agreements should regulate:

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

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

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

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

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

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

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

(a) establishing an overall limit on the proportion of the remuneration that may be paid in kind so as not to diminish unduly the cash remuneration necessary for the maintenance of domestic workers and their families;

(b) calculating the cash value of allowances in kind by reference to objective criteria such as the market value, cost price or prices fixed by public authorities, as appropriate;

(c) limiting allowances in kind to those clearly appropriate for the personal use and benefit of the domestic worker, such as food and accommodation; and

(d) prohibiting allowances in kind that are directly related to the performance of work duties, such as uniforms, tools or protective equipment.

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

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

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

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

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

40. Members should take measures to:

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

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

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

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

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

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

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

(a) encourage the continuing development of the competencies and qualifications of domestic workers, including literacy training as appropriate, so as to enhance their career and employment opportunities;
(b) address the work–life balance needs of domestic workers; and
(c) ensure that the concerns and rights of domestic workers are taken into account in the context of more general efforts to reconcile work and family responsibilities.
(2) Members should develop appropriate indicators and measurement systems in order to strengthen the capacity of national statistical offices and effectively collect comprehensive data on domestic workers.

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

(2) Members should take appropriate steps to assist one another in giving effect to the provisions of the Convention through enhanced international cooperation or assistance, or both, including support for social and economic development, poverty eradication programmes and universal education.
Counting the votes and what it means for us…
In the context of its geographical operation, MFA looks more closely on how Asian governments positioned themselves during the ILC deliberations.

As earlier mentioned, the deliberations witnessed very dynamic and volatile positions of the ILO constituent-governments. Some came with a firm decision while some showed indecisiveness, and some others were unclear of their positions.

Out of the seven Asian countries that favour the adoption of an ILO Convention supplemented by a Recommendation which was reported in ILO’s Repot IV (1) on Decent Work for Domestic Workers, Bahrain, Lebanon and Yemen shifted their positions to Recommendation. We need to come to understand why Bahrain in particular moved from supporting a Convention supplemented by a Recommendation to supporting a Recommendation only.

On the other hand, among the twelve Asian countries that favoured a Recommendation, China shifted to supporting a Convention supplemented by a Recommendation which was big surprise for CSOs and domestic workers. However, it should be noted that China’s position was dependent on majority vote and therefore does not indicate a strong and definite position. Japan and Israel abstained during the voting process.

Recalling that only 6 Asian countries favoured the adoption of a Convention, it can be concluded that a majority of the Asian governments are not ready to provide protection for domestic workers. More efforts should be done in the West Asian region and other countries like India, Indonesia, Malaysia and Singapore. While recognizing the support of the China government, lobbying should still be continued considering that their position is subject on majority vote.

Japan and Israel abstained from the vote on the Indian Government member’s amendment. With more lobbying and dialogue with these two Government members they may come to support a Convention supplemented by a Recommendation.

In terms of participation, the Government member of Australia was the most active participant from the Asian Government members and pushing for a very strong, clear and robust Convention. Although Bangladesh is not in support of a Convention its Government member was an active participant in the discussions to seek clarification and to present some good sub-amendments that kept the discussion moving. After being silent for the first two days of discussion the Philippine Government member became active in the discussions and support a strong and clear Convention. Indonesia, Singapore, Japan, Iran and the Gulf States were pushing for a very weak Convention. Lebanon only spoke once in all the discussions. Sri Lanka, Thailand, China and Syrian Arab Republic despite supporting a Convention supplemented by a Recommendation were completely silent in all the discussions. India and Israel were completely silent as well.

Outside Asia, the governments who stood out in supporting a Convention supplemented by a Recommendation were: the USA, Brazil, Latin American and Caribbean States (GRULAC) and South Africa. The USA in particular supported provisions that addressed the need for protection against abuse and exploitation, in particular of undocumented migrant workers and children.

The strong support of the USA, a major receiving country which has both local and migrant domestic workers, shown by calling for a robust instrument was also seen as one of the achievements in this year’s ILC. Of particular significance is the recognition of the US government of the rights of undocumented or irregular migrant domestic workers.

Specific to migrant domestic workers, the following important provisions were secured:

- **Article 10 on employment contracts indicating the important data that should be included in the contract. The provision was also supplemented under the Recommendation**
- **Article 13 on normal work hours and overtime payment and paid annual leave (1) and 24-hour weekly rest (2)**
- **Article 20 on regulation of employment agencies**
The Way Forward
The network’s engagement in the 2010 ILC gave renewed hope to continue the advocacy for the protection of all domestic workers around the world.

The program served as a capacity building exercise for MFA network members and partners in terms of engaging a global process calling for decent work for domestic workers. Many of the delegates are from organizations that provide direct services to migrant domestic workers and some are migrant domestic workers themselves.

Apart from understanding better how the ILO functions, its dynamics, potential and limitations for CSO participation and advocacy, the engagement was also a time to reflect on how the campaign has impacted domestic workers: do we really bring change to domestic workers? a time to stretch ourselves and scale up the level of networking and decision-making; a time to actively engage and network with policy makers, including governments, international agencies, and other CSOs on pressing issues with regard to migrant domestic workers.

The ILC also saw unities and greater solidarity among domestic workers groups across the globe. This is very essential if we want to convince governments that domestic workers should be recognized as part of the productive labour force. Likewise, new alliances were built. These provide more opportunities for networking.

TU-NGO collaboration which MFA has pursued and cultivated was also manifest with MFA delegation members participating in the workers’ committee discussions and BWI and ITUC co-organizing the public event.

The public events like the rally, poster exhibit and public concert also helped raise the issue of domestic workers, not only among the public in Geneva but especially among delegates to the ILC, the missions and other stakeholders.

The support of the Vatican is also a significant achievement. The Holy See’s pastoral letter supporting the move of the ILO to include domestic work on the 99th Session of the ILC can be used as a powerful advocacy tool in influencing governments, policy-makers and other key actors who could help drive the campaign.

These achievements were also complemented by the composition of the delegation: migrant domestic workers, organizations working directly with domestic workers, migrant support groups and migrants’ rights advocates.

However, despite its gains, the network also realized gaps in the process which could be learned from and improved.

While cognizant of the fact that ILO’s structure is based on tripartism and that lobbying should focus on governments, workers and employers, the support of other sectors that could be instrumental in driving the campaign should also be considered. Women and gender groups were observed to be invisible in the discourse. The issue of domestic work is undeniably a gender issue which needs the participation and intervention of women’s groups. Domestic work, which only until recently has been regarded as informal and has no monetary value, clearly manifests the subordination of women.

Involving policy makers would also be a priority. The Convention, once ratified, mandates the ratifying party to legislate a national law. It is important that these policy makers are involved in the process right from the start as they will be the one crafting the law. By doing so, they will have a good interpretation of the Convention.

Lobbying in the West Asian region should also be intensified as they come as a bloc. It is important to note that much pressure is put on each country by the rest of the bloc, greatly affecting its position.

Further, we need to involve more domestic workers in the campaign, more efforts should be given to capacitating them to understand well the issue and also to develop them to become spokespersons.

Another important aspect of the campaign that was under utilized was the media. In order to continue the momentum and build on the 2011 ILC, involvement of the media will be further strengthened.

More importantly, the engagement showed the need to strengthen lobbying among the other Asian governments given that only six countries supported
a Convention. It is now imperative for CSOs and domestic workers to rethink strategies and find creative ways of influencing the position of the governments. The MFA network needs to strengthen interventions at the national level, not only in adopting a Convention but also in calling countries to ratify and implement an ILO Convention on domestic work. This means a more intense information-education campaign involving communities, migrants groups and domestic workers themselves.

Notwithstanding the above, collaboration with the trade unions should continue to be given paramount importance. Follow-up activities at the national, regional and international levels should aim at influencing the governments’ position. The network is now looking at plans building up to the 2011 ILC.

The setting of labour standards for domestic workers is only a first step to recognizing that domestic workers deserve both rights and respect. The road stretches critically ahead of us. Let us build on what we have so far achieved and move on slowly, steadfastly and surely.
Annexes
## ANNEX 1
### MFA DELEGATION TO THE 99TH SESSION OF THE INTERNATIONAL LABOUR CONFERENCE
2-18 June, Geneva, Switzerland

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<tr>
<th>Region/Country</th>
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<td><strong>East Asia</strong></td>
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<td>Hongkong</td>
<td>Marissa De Guzman,</td>
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<td>Asian Migrant Centre</td>
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<td>Indra Limbu</td>
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<td>Coalition for Migrants Rights/ FEONA</td>
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<td>Taiwan</td>
<td>Fr. Peter Gerard O’Neill</td>
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<td>Hsinchu Catholic Diocese Migrants and Immigrants Service Center</td>
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<td>Regina Fuchs</td>
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<td>Hope Workers Center</td>
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<td>Japan</td>
<td>Ralph Hosoki</td>
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<td>Solidarity with Migrants Japan (SMJ)</td>
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<td>India</td>
<td>Rafeek Azeez</td>
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<td>Center for Indian Migrant Studies</td>
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<td>Agnes Matienzo</td>
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## ANNEX 1 continued...

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<td>Michelle Levoy</td>
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<td>Italy</td>
<td>Manfred Bergman</td>
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## Annex II

### ILO CALENDAR

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<th>Date</th>
<th>Event Description</th>
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<tr>
<td><strong>March 2009</strong></td>
<td>The Office sends a law and practice report along with a questionnaire to ILO Member States. Governments are requested to consult with the most representative workers’ organizations and employers’ associations.</td>
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<tr>
<td><strong>August 2009</strong></td>
<td>Deadline for submission of replies to the Office</td>
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<tr>
<td><strong>January 2010</strong></td>
<td>The Office sends to ILO Member States a second report examining the replies received to the questionnaire in 2009</td>
</tr>
<tr>
<td><strong>June 2010</strong></td>
<td>First discussion at the International Labour Conference of the ILO. A decision is taken on the form of the draft ILO instrument(s) - whether a Convention or a Recommendation or both or a Convention with binding and non-binding parts</td>
</tr>
<tr>
<td><strong>August 2010</strong></td>
<td>The Office sends a third report containing (a) draft instrument(s) to Member States</td>
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<tr>
<td><strong>End November 2010</strong></td>
<td>Deadline for submission to the Office of comments on the third report by Member States</td>
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<tr>
<td><strong>March 2011</strong></td>
<td>The Office sends two reports to Member States: one examining the replies received on the third report, and the other containing the text of the draft instrument(s) revised in the light of comments received</td>
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<tr>
<td><strong>June 2011</strong></td>
<td>Second discussion at the International Labour Conference of the ILO. A Convention or any other agreed instrument will be discussed and adopted or rejected by the ILC</td>
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Annex III

Trade Union-Domestic Workers Regional Strategy Consultation on ILC 2010
4-5 May 2010, Astoria Plaza Hotel, Pasig, Metro Manila, Philippines

“Strengthening the joint position and campaign of Asian domestic workers, trade unions and advocates for an ILO DW Convention and the recognition of domestic workers.”

CONFEREE STATEMENT

We, the participants to the Regional Strategy Consultation on Decent Work for Domestic Workers held this 4th and 5th of May 2010 at the Astoria Hotel, Ortigas, Pasig City, Philippines, representing domestic workers, trade unions, civil society groups and non-government organizations from the Philippines, Hongkong, Bangladesh, Indonesia, Sri Lanka, Nepal, Singapore, Cambodia, Taiwan, jointly and voluntarily adopt the following framework for action:

Domestic workers are workers and not slaves. All domestic workers are entitled to the strongest form of legal protection possible at the international and national levels. As such, we are striving for an International Convention on Decent Work for Domestic Workers, accompanied by a Recommendation. Similarly, we are campaigning for the adoption of national laws and regulations that will ensure effective application of the provisions of the Convention.

For centuries, domestic work had been unrecognised, informal, unregulated, undervalued, and considered unskilled due to the notion that domestic work does not constitute formal employment – i.e. it is an extension of women’s unpaid reproductive (nurturing) role. The significant role of domestic work in the reproduction of every day life, and the contribution of domestic workers to the local and global economy, must be recognised. An ILO Convention will help break these gender and class stereotypes, and lay down the basis for an employer-employee relationship in domestic work.

We will utilize the following principles as our guide in campaigning for a Convention and other legal instruments:

Domestic work is work. Domestic workers must be treated equally as other workers and enjoy all the rights, privileges, and legal protection, as well as responsibilities afforded to all other workers in the context of decent work for all.

International Conventions, accompanying Recommendations, and complementary legal instruments must follow the principle of non-discrimination and must cover ALL types of domestic workers. We will oppose provisions that would, in effect, exclude categories of domestic workers from the benefits and protection afforded by the International Convention, its accompanying Recommendation, and corresponding national legislations and regulations.

It is our utmost priority to end all forms of discrimination against domestic workers, because of, but not limited to, race, region, class, religion, sex and gender, and beliefs.

Domestic Workers are entitled to fair terms of employment, decent working and living conditions, a safe and secure workplace, portable social security, health care, and
maternity protection. These terms of employment should be reflected in a written contract which, whenever applicable, is legally-binding and enforceable to both sending and receiving countries of work.

Special measures should be undertaken to protect the right to privacy of domestic workers, including confidentiality of personal and medical information.

Domestic workers are entitled to decent wages and shall be covered by prevailing minimum wage rates, where such coverage exists. Their wages should be protected against any form of diminution. No in-kind payments of any form should be allowed.

Domestic workers are exposed to multiple vulnerabilities and, by the nature of their work, often placed in disadvantageous positions. Domestic Workers have the right to protection against all forms of abuse and harassment, including withholding of wages and documents, physical, verbal, sexual and mental abuse. Such protection is the responsibility of sending and receiving countries and recruitment agencies and other intermediaries. Abused domestic workers have the right to continue gainful employment while their case is pending.

Children below the minimum admissible age as prescribed by ILO Convention 138 (Minimum Age for Work) and 182 (Worst Forms of Child Labour) and complementary national legislations should not be allowed to work as domestic workers.

Domestic Workers have the right to justice through easy and free access to fair, impartial courts, mechanisms and processes of dispute and case resolution. Pro-active monitoring system of their conditions should also be instituted.

Domestic workers should be given the capacity, resources, opportunity, and democratic space necessary to organize themselves into unions and associations, engage in collective bargaining, and represent themselves in policy and decision-making bodies, especially on issues directly affecting domestic workers.

We subscribe to the principles articulated above, as basis for the adoption of an International Convention on Decent Work for Domestic Workers and the enactment of national laws and regulations that will recognize, without discrimination, the rights of Domestic Workers.

As a sign of our dedicated commitment to promote Decent Work for Domestic Workers, we attach our signatures to this Statement.
Annex IV

Petition for an ILO Convention on Domestic Workers!

The International Labor Organization has recognized the urgent need to establish minimum standards of “human dignity and self-respect” for domestic workers as early as 1965, in a resolution that cited the lack of social and legal protection for them. However, until today, this has not progressed into binding standards or legal commitments. Part of this inaction is the prevailing notion that domestic work does not constitute formal employment – i.e. it is an extension of women’s unpaid reproductive (nurturing) role. An ILO Convention on Domestic Workers will help break these gender and class stereotypes, and lay down the basis for an employer-employee relationship in domestic work.

1) We, the undersigned, therefore, call for the adoption by 2011 of an International Convention on Domestic Workers, together with clear guidelines on monitoring and implementation, reporting and compliance mechanisms. We believe an ILO Convention will significantly contribute to the reduction of slavery-like conditions, abuse, violence, exploitation, inequality, and discrimination against women and domestic workers. It will help reduce the worst forms of child labor, the stigmatization and criminalization of migrant domestic workers, and racial and ethnic discrimination.

The year 2010 also marks 124 years since 300,000 workers first walked out of their jobs demanding an 8-hour workday. The ‘8-hour standard work’ principle is one of the hallmarks that differentiate workers from slaves. At its very first session in 1919, the ILO formalized this principle into international law by adopting ILO Convention #1. In 1999, ‘decent work hours’ was identified as a key component of ILO’s decent work principles. Unfortunately, a century-and-a-quarter later, one of the most vulnerable sections of the working class – the domestic (household) workers – have been denied decent work hours and other basic labor standards (decent wage, regular rest days, retirement/social security, reproductive/family rights, etc.). ILO Convention #1 and many other key ILO Conventions exclude domestic workers from their coverage. It is long overdue to renew the revolutionary spirit of May Day 1886 in the modern-day context – by making these basic standards universally applicable to all workers, especially the vulnerable, like the domestic workers.

2) We, the undersigned, therefore, petition employers, governments, workers’ groups, and the general public to recognize the ‘8-hour standard work’ principle, and that it applies to domestic workers who should not be subjected to the slave-like condition of providing round-the-clock service-on-demand. Domestic work is work. Domestic workers are workers, not slaves, and therefore, must be treated equally as other workers and enjoy all the rights, privileges, and legal protection, as well as responsibilities afforded to all other workers in the context of decent work for all.
Domestic workers, mostly women, are already in the most insecure of environments where work is often casual, temporary, sub-contracted, or even informal, where benefits and conditions are not standardized – no minimum wage, no set working hours, no social security, and no provisions for occupational safety – and where there is not even a semblance of recognition of basic human rights. Domestic work is yet to be fully and widely recognized as work, which means domestic workers, mostly women, are yet to be covered by labor laws that protect and promote the rights, welfare, status, and dignity of workers.

It is, therefore, the utmost priority to end all forms of discrimination against domestic workers because of, but not limited to, race, region, class, religion, sex and gender, and beliefs.

3) We, the undersigned, therefore, adhere to the principles of decent work for all workers. We strongly urge that domestic workers be entitled to fair terms of employment, decent working and living conditions, a safe and secure workplace, portable social security, health care and maternity protection. Furthermore, given the nature of domestic work and the fact that domestic workers are exposed to multiple vulnerabilities, we petition employers, governments, workers’ groups, and the general public to recognize that domestic workers enjoy the right to protection against all forms of abuse and harassment, including withholding of wages and documents, physical, verbal, sexual, and mental abuse.

4) We, the undersigned, signify our support of and commitment to strengthen the International Campaign for the Rights and Recognition of Domestic Workers (8-HR) that builds on the Decent Work for Domestic Workers agenda of the ILO for the highly anticipated and long overdue Convention for Domestic Workers.

We subscribe to the principles articulated in this Petition as basis for the adoption by 2011 of an ILO Convention on Domestic Workers and the eventual enactment of national laws and regulations that will recognize, without discrimination, the rights of domestic workers.
Annex V

List of Countries that favour the Adoption of an ILO Convention supplemented by a Recommendation

| 1. Argentina,          | 36. Norway,          |
| 2. Australia          | 37. Peru             |
| 3. Austria            | 38. Philippines      |
| 5. Belgium            | 40. Romania          |
| 7. Brazil,            | 42. Senegal          |
| 8. Burkina Faso       | 43. Slovakia         |
| 9. Chad               | 44. Slovenia         |
| 10. Chile             | 45. South            |
| 11. China             | 46. Africa           |
| 12. Czech Republic    | 47. Spain            |
| 14. Dominican Republic| 49. Suriname         |
| 15. Ecuador           | 50. Swaziland        |
| 17. Finland           | 52. Switzerland      |
| 18. France            | 53. Syrian Arab Republic|
| 19. Gabon             | 54. United Republic of Tanzania |
| 20. Germany           | 55. Thailand         |
| 21. Ghana             | 56. Turkey           |
| 22. Greece            | 57. United Kingdom   |
| 23. Honduras          | 58. United States    |
| 24. Hungary           | 59. Uruguay          |
| 25. Italy             | 60. Vanuatu          |
| 27. Lebanon           | 62. Zimbabwe         |
| 28. Lesotho           |                    |
| 29. Maldives          |                    |
| 30. Mali              |                    |
| 31. Mexico            |                    |
| 32. Mozambique        |                    |
| 33. Namibia           |                    |
| 34. Netherlands       |                    |
| 35. Nigeria           |                    |
A vast majority of the UN-estimated 60 million migrant workers in Asia are women and are predominantly engaged in domestic work. Most of them come from Indonesia, the Philippines, Bangladesh, Nepal, Sri Lanka, India, Myanmar, Thailand, and Lao PDR and are employed in Malaysia, Hong Kong, Singapore, Thailand, Macau, India, Taiwan, and the Middle East. Many more Asian women are employed as domestic workers elsewhere in the world.

Domestic workers are driven to engage in domestic work for various reasons – most common of which is the endemic poverty in their homes that makes it impossible for them to have job opportunities in other industries or fields of work. Most of these women are driven out of their own countries in the hope of earning better incomes abroad while they provide domestic services to foreign employers. This puts domestic workers in one of the most insecure of environments where work is often casual, temporary, sub-contracted or informal, where benefits and conditions are not standardized – no minimum wage, no set working hours, no social security, and no provisions for occupational safety – and where there is little, if any, labour and human rights protection.

Furthermore, despite the significant contributions of domestic workers to their households and employers’ families, to communities and countries (both of origin and destination), and to the industries and economies in which they selflessly invest their time, skills, sweat and tears, these domestic workers have yet to enjoy the recognition they have so long deserved. Domestic work is yet to be fully and widely recognised as work: domestic workers are yet to be covered by labour laws that protect and promote their rights, welfare, and dignity. Their work should be valued and respected as one of the essential job sectors that contribute to society’s productivity and development; and that therefore, their conditions of work must be on a par with other job categories including valid work contracts and visas, social mobility, job security and collective labour rights.

A critical step for the International Campaign for the Rights and Recognition of Domestic Workers is the establishment of international labour and human rights standards specific to domestic workers. These will help provide the minimum basis and standards for the recognition of the status and rights of domestic workers as workers.
The existing core UN instruments and the fundamental ILO labour standards can be and are being used by domestic workers’ groups and advocates in asserting the rights and status of domestic workers as workers. Foremost among these are CEDAW and the Migrant Workers’ Convention. However, all of these provide only partial coverage of domestic workers’ rights. A definitive, coherent, and comprehensive instrument is needed to clearly establish minimum standards and rights for ALL domestic workers as workers.

Migrant Forum in Asia (MFA), Asian Migrant Domestic Workers’ Alliance (ADWA), and the International Working Group for Domestic Workers (IWG-DW), believe an ILO Convention on Domestic Work will significantly contribute to the reduction of slavery-like conditions, abuse, violence, exploitation, inequality, and discrimination against women and domestic workers. It will help reduce the worst forms of child labour, the stigmatization and criminalization of migrant domestic workers including undocumented workers, and racial and ethnic discrimination.

At this critical juncture where the fate of the proposed ILO Convention rests in the hands of governments, workers’ groups, and employers’ groups, we are encouraged by the common sentiment of the tripartite partners. Certainly, we are in agreement that domestic work is work and that domestic workers must be treated with respect and dignity.

We appreciate the tripartite’s recognition of the urgent need to have a flexible but robust and effective instrument that protects domestic workers. We believe that this takes the form of a Convention Supplemented by Recommendations.

Finally, we emphasize the urgency of having domestic workers themselves centrally and critically involved in this process otherwise, the non-recognition and marginalization of domestic workers will be reinforced. We recognize the domestic workers who are with us today who will be directly affected by what is done or not done in their name in this 99th session of the ILC. We stand in solidarity with the domestic workers who cannot be physically present here but who engaged in the various national and regional processes to ensure their voices are heard and their demands for rights and recognition are considered, recognized, respected, and protected.

We are all eagerly anticipating a historic moment to unfold in this year’s ILC.

**Delivered for MFA by Miss Ellene Sana, Chairperson of the MFA Executive Committee**
Statement by H.E. Archbishop Silvano M. Tomasi
Permanent Representative of the Holy See
to the United Nations and Other International Organizations in Geneva
at the 99th Session of the International Labour Conference
Geneva, 10 June 2010

Mr. President,

The effects of the financial and economic crisis have globally damaged the welfare of families and individuals. Timid, uneven and uncertain signs of recovery notwithstanding, the impact of this recession has stifled progress in poverty reduction, increased unemployment in developed countries and every household has suffered set-backs in low-income countries. In 2015, 20 million more people in Sub-Saharan Africa, and 53 million more people globally, will find themselves in extreme poverty. While there is general agreement on the need for structural reforms, vested interests must not lay most of the burden on wage-earners, rural people, and already marginalized groups in society. Economic mechanisms without ethical criteria will not lead to constructive solutions.

The crisis can open a new perspective on the role of markets and on the role of the State. The food crisis of 2008 has shown that countries lacking basic food supplies could not simply rely on the forces of the market to ensure food for their people. Several export countries responded with protectionism and speculation resulting from the perception of shortage. Countries heavily
dependent on food import witnessed serious protests. Thus a certain degree of self-sufficiency and a better regulation of the commodities markets became a logical conclusion.

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

This is a delicate condition for major advanced economies, since the process of fiscal consolidation will constrain economic growth. Recent experience shows that the adjustment coefficient is the level of employment, the buying power of people and their ability to feed, educate, and care for themselves. Justice demands that the suffering of people should not be the coefficient of adjustment of the economic system. While the merits of open markets in the creation of wealth should be acknowledged, some additional and internationally coordinated action, as well as the development of some means of common governance, appear necessary. We need to keep in mind that work is more than wages; it is the means to self-fulfilment and the way to achieve one’s life project.

The Delegation of the Holy See fully supports the aim of the ILO to give priority to persons and their work in the search for innovative and dynamic policies aimed at removing structural impediments to the recovery of the economy. The attention to domestic workers and the positive vote taken on a
new binding instrument for their protection express preference for the most vulnerable members of society. Domestic workers are doubly at risk. First, they come from the most disadvantaged segments of society with very limited resources for protection. Extreme necessity pushes them to take up any job available, even though, in more than a few cases, conditions at work are very hard. Second, the ambiance of their employment is open to exploitation. Women and girls constitute the majority within this category of workers. Often they lack juridical and social protection, fair remuneration, limits on the amount of hours they are expected to work, a guarantee for a weekly period of rest, safeguards during times of illness or for maternity. When abuses occur, there is no appeal and the only option is to escape and thus to lose salary due as well as employment. On many occasions, within the privacy of the domestic walls, the dignity of domestic workers is violated. Physical and sexual harassment are not uncommon. Racial and religious identities expose these workers, especially women, to heavy discrimination.

If the domestic worker is an immigrant, especially if without proper documentation and/or a labour contract, his/her vulnerability is much greater. But we should consider that this is one of the few sectors of the economy where immigrant workers are complementing and not substituting indigenous workers, since typically they accept jobs that the latter are unwilling to assume. In many poor countries, young girls are engaged in domestic work and their own families see their service as a normal contribution to family survival. On the other hand, domestic workers assume a critical role, especially in Western societies, where life-style and demographic changes demand their presence. They become an important presence in the family since they manage the household, care for the elderly and for the children and thus allow mothers and daughters to pursue careers and active roles in society. Another important contribution offered by domestic workers is found in the remittances that they send home and that benefit families and local development. The opportunity and necessity of a new binding norm, an International Convention on Domestic Workers, appears undeniable: it will promote opportune national legislation for their protection, support their rights of association, of collective negotiation, and of union representation. An education campaign already should initiate to make domestic workers, as well as employers, aware of reciprocal duties and rights. This widening horizon on the world of work offers both a challenge and new possibilities, as the social encyclical of Pope Benedict
XVI, *Caritas in veritate*, states:

“...labour unions — which have always been encouraged and supported by the Church —... Looking to wider concerns than the specific category of labour for which they were formed, union organizations are called to address some of the new questions arising in our society...The global context in which work takes place also demands that national labour unions, which tend to limit themselves to defending the interests of their registered members, should turn their attention to those outside their membership, and in particular to workers in developing countries where social rights are often violated. The protection of these workers, ...will enable trade unions to demonstrate the authentic ethical and cultural motivations that made it possible for them, in a different social and labour context, to play a decisive role in development.”

As part of this widening of horizons in the struggle for a global implementation of decent work, attention should focus on other categories of workers in need of protection: the masses of still unorganized workers, rural workers, and unemployed youth. The rights of unorganized workers are too often ignored, and, as a result, their security in the workplace, their protection from unjust firing, and their entitlement to at least a minimum salary are not respected. Rural workers, in particular, are left out of the range of attention. Not always ready to confront market forces because of lack of training or lack of information, due to the current crisis, they risk being deprived of public support for technical capacity-building or for trade. These are badly needed measures responding to readjustment policies that proved to be counter-productive. Thus some of these policies should be revised, and an allowance made for an incremental opening of borders for homogeneous groups of countries, for as long as they can improve their productivity and their capacity to profit from the market. In 92 countries, agriculture represents more than 75% of the GDP; between 2 and 2.5 billion persons derive their income from agriculture. This sector of the economy is a source of work, of food, of social networks, of emancipation of women, and of protection (or degradation) of the environment. By creatively supporting work in this sector, malnutrition and poverty can be reduced and eventually eliminated, and such workers integrated in the global economy.

Finally, child labour and youth unemployment call for a concerted response. More than 215 million children are constrained to work,
many in dangerous conditions. The number of unemployed youth has increased by 8.5 million between 2008 and 2009, the largest year-on-year increase in the last 10 years, and by more than 10 million since 2007. Wasted capacities and frustration can have disastrous social consequences for the future.

Mr. President,

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

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

Opening Remarks by Halimah Jacob
Workers’ Group Spokesperson
Decent Work for Domestic Workers Committee
99th Session of the International Labour Conference, Geneva, Switzerland
2 June 2010

Mdm Chair and delegates,

First, congratulate chairperson, Ms Lourdes Transmonte, on her appointment. Philippines have done a lot of work in the area of domestic workers and I am sure that her experience would be very useful in helping to steer us in our work. Also, congratulate the employer spokesperson, Mr Rahman, on his appointment. WG certainly hopes that we can leverage on social dialogue to help in the work of this committee and to achieve good conclusions. Thank Ms Manuela and her officers from the Office for their excellent reports both of which are very good and comprehensive. Thank Office also for the set of conclusions prepared after taking into account the responses from the Office questionnaire, which was sent to all governments.

1. We are gathered here on an important mission. Our mission is to make decent work for all, a clarion call of the ILO, not just a slogan but a truly inclusive agenda. For too long, decent work for all has been nothing but a slogan for the millions of domestic workers who toil everyday. Our mission is to change this so that decent work for all is truly inclusive by making sure that it applies to all domestic workers.

2. If we succeed, then international labour conference 2010 and 2011 will go down our history books as the time when we collectively had the courage and strength to do what is right for the millions who have been exploited, abused and forgotten. Our Workers’ Group hopes that delegates here, regardless of the group that they belong to will participate in making this long overdue, historic move.

3. Why historic? Indeed, since the abolition of institutionalized slavery more than 200 years ago, domestic workers have remained excluded from recognition or protection from abuse under the labour law in many countries, including the right to organize, over-time protections, and health and safety regulations.

4. So domestic workers, like agricultural workers, were left out of this “leap forward” in the labour world which the abolition of slavery represented. It is no accident that cases of actual domestic slavery are regularly discovered. As a result of an historic oversight, this sector has been in a situation where the working relationship is still based on domination and crude exploitation in too many cases.

5. Many of us on the workers’ bench, and I am sure also our colleagues in the governments and employers groups, can testify to the unacceptable and intolerable situation endured by millions of domestic workers. But I will limit myself to what the ILO says about this. I quote: “Domestic workers, in particular in-house workers, often have to work long or even excessive hours of work (on average, 15-16 hours per day), with no rest days or compensation for overtime; they generally receive low wages, and have inadequate health insurance coverage, are also exposed to physical and sexual harassment and violence and abuse, and are in some cases trapped in situations in which they are physically or legally restrained from leaving the employer’s home by means of threat or actual violence, or by withholding of pay or identity documents. In many countries, labour, safety, and other laws do not cover domestic workers, so that there are no legal norms applicable to them or no offices and inspectors
to enforce standards that do not exist. Even if they are protected by legislation, it can be very difficult for domestic workers to learn about or benefit from available protections, the result being widespread violations of protective labour laws” unquote. This comes from the Governing Body document tabled by the Office in November 2007. This unfortunate situation affects all countries regardless of their development level. And actually many of the Governments present here have acknowledged the problems faced by domestic workers and some have already taken steps to address them.

6. Domestic workers have also been excluded from much of international treaties including ILO Conventions. In fact, quite a number of ILO Conventions permit the exclusion of domestic workers from the scope of their provisions, for instance: the minimum age Convention No. 138 is applicable to all children, but allows the implicit exclusion of child domestic workers. The same goes for Conventions on private employment agencies (No. 181); termination of employ-ment (No. 158), Protection of wages (No. 95) and Social Security (No. 102).

7. What we will be dealing with here will be basic human rights, including human rights at work, for a category of workers that has been left without a voice for centuries. Indeed back in 1948, this very body, the International labour conference, drew attention to their plight and in 1965, 45 years ago, called for standard-setting to protect them. The ILO, regardless of where we come from, regardless of our groups, has a collective responsibility to address their concerns and provide them with what they lack most: the recognition as workers, respect and dignity.

8. This is the ILO at its best: developing standards to bring social justice and decent work for the most vulnerable. This is what makes the ILO unique and different from other agencies. Developing international labour standards for domestic workers would fill an important gap in the promotion of Decent Work for All. Domestic workers, many of whom are migrants and women, represent a very large portion of unprotected workers.

9. We are happy to see that responses to the ILO questionnaire show that many governments have concerns, similar to ours, regarding this category of workers. Many governments support standard-setting and indeed quite a few of them have already taken action that may help us negotiate instruments that are based on good practices and can have a positive impact.

10. Indeed, domestic workers lack protection under both international and national laws. Yet, they represent an important and growing segment of the labour force; estimates put their numbers at well above 100 million and about 4 to 10 per cent of the population in most countries. Their work has enabled others to improve their living standards - those who employ them can take on paid work outside the home. True, domestic work can take many forms and circumstances: live-ins, migrant workers, part-time workers and multiple employers. But they share three things in common: they work in private homes, they are vulnerable to abuses and lack the legal protection enjoyed by most other categories of workers.

11. The fact that domestic workers suffer from poor working conditions and that their isolation makes it difficult for trade unions to reach out and organise them to improve their working conditions, make it a strong case for international convention. A convention can be used by governments as a reference point to improve their legal environment through labour legislation that will enable domestic workers to benefit from the full range of protections and rights related to decent work. It is clear to us and the majority of governments that have responded to the questionnaire that to do justice to domestic workers require a binding instrument that can set minimum standards and principles to be adhered to. And to assist in the implementation of such a standard, a recommendation could help address specific conditions and situations that may be faced by domestic workers, and also take into account the national context.

12. Indeed, the work performed by domestic workers help to free up others for economic, educational and social activities. They are the oil in the wheels and, without them, many societies and economies
could not function. In some countries, the remittances that they sent back amount to billions of dollars and constitute a significant portion of a country’s GDP. Often too, the domestic workers’ earnings are the sole incomes supporting entire families. So providing domestic workers with decent work means improving the lives of their families as well, a multiplier effect which is staggering. Yet, they are often not recognised as “workers” with the rights that other workers have. They are invisible. Many are also migrants, living isolated from their own families and children. While they toil daily to take care of the sick, comfort the elderly and nurture the young, there is not much being done to support their own welfare and needs, and that of their families.

13. We have heard one argument that having binding standards or a convention on domestic workers will cause rigidity or inflexibility in the labour market. On the contrary, clear rules will promote a more robust and efficient labour market as everyone will be competing fairly on the same transparent set of rules, which is known to everyone who wants to employ a domestic worker, and there is no undermining of each other to gain unfair advantage. In other words, if providing rest days is requirement under the convention and legislated under national laws, every employer has to provide that as a minimum standard, thus avoiding a situation where those who provide such a benefit feels that they are disadvantaged because other are not doing so. Over time, as rest days become the minimum standard, we will see a rising of the quality and standards in the domestic work sector to the advantage of employers and most certainly governments concerned about how to ensure better protection for such workers. One analogy would be the social security system found in most Scandinavian countries. We were told that such a system based on laws and regulations would create rigidities and affect the effective functioning of the labour market. We have seen that this is not the case as many of the Scandinavian countries continue to enjoy economic growth long after social security system was introduced and I dare say that in the 2009 recession, they were not the worse affected among the industrialized economies. The thinking behind this concern about rigidity is that it will interfere with the labour market. But we have already seen that for other workers, governments do feel that to allow the free market mechanism to apply without restriction would lead to exploitation and abuse as bargaining strength in an employment relationship is never equal and, therefore, governments have intervened to set standards for the workers. We are requesting for the same consideration to apply to domestic workers who are even more vulnerable compared to many other workers.

14. Another argument is that a binding convention would be detrimental to the domestic workers themselves who would lose their jobs and affect employment creation. If we accept this argument, then we should not have any standard at all as every standard could potentially affect employment creation but we have not seen that happening. In fact, we have seen the opposite, in that, with the improvement of labour standards, the world has witnessed unprecedented growth and job creation, pushing millions out of poverty. As people began to enjoy better wages and standard of living, they spend and consume more, and this in turn help to perpetuate the virtuous circle of strong growth at both the national and global levels.

15. The beauty of standards is that it sets a minimum that everyone has to follow and therefore prevent unfair competition. We also know that without ILO standards we will descend into the nightmare and chaos of the dark ages, beginning with the industrial revolution. In the UK, that nightmare of the dark ages was captured in the classic story called Hard Times written by a famous author, Charles Dickens. I studied that as part of my literature subject in school. In his book, Dickens described the appalling working conditions and total degradation of the human spirit that came together with the onset of the industrial revolution. We don’t want our domestic workers to continue to live and experience the Dickensian conditions of work as this shows that human society has not progressed.

16. Yet another argument on why we cannot have a convention because the social, economic and cultural conditions in member states differ, has been heard over and over again in the ILO every time we discuss about a new standard or even when we talk about implementation of existing standards. By adopting the Social Declaration, we had reaffirmed that ILO standards are universal and are applicable to all countries. We also acknowledge that there are countries that can apply the standard immediately
but there are others who may need ILO technical assistance to do so as they may face some administrative, legislative or other difficulties, or simply lack the know-how. This is not an insurmountable issue and can be dealt with through ILO technical assistance and the Office should proactively provide guidance and assistance. But I also want to urge everyone to look at ILO standards as a goal that every government should aspire to reach. It’s like when you set a target for your performance, you want to set a stretched target and not one that is so achievable that there is no challenge at all in fulfilling it. At the end of the day, the fundamental question to ask is whether this is the right thing to do and whether your workers will benefit from this higher standard. We also understand the need for a balance. While the convention should not be overly prescriptive, at the same time, it cannot also be so general and containing only broad principles that it is of not much practical use to countries, which are then again free to set whatever standards they deem fit.

17. Some have also argued that a standard will be difficult because of the private nature of the relationship of domestic work because it is performed in households, but I urge that we do not use this as a basis for denying domestic workers the protection that they badly need. Indeed, the right question to ask, and the real issue, is not whether it is right to accord protection to workers who are working in households but instead we should ask whether it is right for us to continue to exclude and deny protection for such workers just because they work for households.

18. Finally, let me conclude by asking you to recognize that what our domestic workers want most is respect for them as individuals and human beings. They are not invisible, they are not part of the furniture but they are someone’s mother, daughter, wife, sister and many more important roles. They exist and they ask that you acknowledge their existence by extending decent work to them. Indeed, I have always been very concerned about the values that we are imparting to our young by the way we treat our domestic workers. If we oppose our domestic workers having the basic rights and standards of dignity that are due to them similar to other workers, what are we teaching our young, as many of these domestic workers are employed to take care of young children in the households. Are we telling them at their young age, that there are people who are lesser beings than us, who are less equal than us, who can be badly treated because they are domestic workers and they are no better than the furniture in the house? Are we imparting the right values when we allow our domestic workers to sleep in the dog house or next to the toilet or, for that matter, not to sleep at all? As domestic workers tend to be employed by middle income households, whose children have access to better education opportunities and, when they become adults, are likely to hold leadership positions in industry, commerce, government and society, are we not concerned about the kind of decisions that they would be making with great impact on our society, if their value system is already distorted and they think that it is alright to treat people, such as domestic workers, badly because these are lesser human being anyway? And as a ninety per cent of domestic workers are women, are we suggesting to our young that women are inferior to men and therefore can be treated badly? Also, what impact will these have on our efforts to promote gender equality and greater sharing of responsibilities at home, since domestic workers are predominantly women? If these questions disturb you, the solution is not to cast them aside but to ask what we can do to address these issues. And most certainly a convention supported by a recommendation is one way forward.

19. We look forward to work with governments and to engage in dialogue with our colleagues on the employers’ bench. It can only be in the common interest of all to bring decent work to millions of workers, and contribute to poverty alleviation. This is also one more step that we are making towards helping to assist workers to transit from the informal sector to the formal economy, as domestic workers are predominantly found here. This is why like many of the governments here present we support the proposals in favour of a Convention supplemented by a Recommendation. This is the only way we can do justice to the legitimate calls for decent work for domestic workers and repair what I would call diplomatically “a historic oversight”.
20. Our work will not be easy and some of the issues we will discuss are complex. But our objective is quite simple: it is about developing instruments that will enable us to change an employment relationship based on domination and exploitation because of a legal vacuum, into an employment relationship based on recognized rights and respect for human beings.

21. All of us attending this conference should leave Geneva with a sense of having accomplished a historic mission: providing the ILO and its constituents with the tools to advance the cause of social justice and decent work and end decades of exclusion for domestic workers.

22. We should all feel proud to associate the names of our countries, the names of our trade union organisations, the names of our employers’ federation to this noble, historic achievement.

23. The ILO has set ‘decent work for all’ as the goal for its work. Now is the time for that “all” to include domestic workers.

24. Let us work together to make this possible. The world is looking at us. I hope that we will not flinch or balk at doing the right thing, and we will support a convention supplemented by a recommendation on decent work for domestic workers. And we need a convention that is clear and effective, covering key areas on decent wages, decent living conditions and non-discrimination against domestic workers.

Thank you,
Halimah Yacob
Annex IX

The Culture of Impunity: Challenges for Human Rights
Renuka T Balasubramaniam[1]*

The persistent thorn in Malaysia’s side this past decade has been the question of its non-existent migration policy and the appalling lack of transparency in Government policy concerning the recruitment and approval of temporary employment visas, the circumstances in which migrant workers are entitled to obtain special passes to pursue legal redress and the circumstances of their prosecution for being undocumented, and subsequent deportation.

The documented evidence of state official collusion in trafficking at the Thai – Malaysian borders[2], complicity by immigration officials in the modern day slave trading of deportees[3], deaths of detainees in immigration detention centres due to deplorable health conditions and lack of medical attention[4] and sexual violence perpetrated on women detainees[5] are just a few examples of impunity that is part of the Malaysia Government’s policy. Indeed the Government of Malaysia defends the conditions within its detention camps as being a necessary deterrent to the migration pull factor.

The difficulties that this situation raises for lawyers working in this area is that unlike in the UK or in Australia, where government policy is not only reduced to writing but made public, in Malaysia, policy tends to vary every few months. It is not publicised and exceptions for their implementation may always be made at the discretion of the Director –General of Immigration. The lessons of Malaysian history, as reflected in events such as the 1988 Judicial Crisis and the 2008 Royal Commission on the Video Clip have taught us that a big part of what ails the current system stems from Executive interference in the judicial appointments process and a lack of transparency and accountability in the process.

As a result, the Immigration Act’s ouster clause, a clause prohibiting the review of the Director-General’s decisions by the High Court of Malaysia, even if challenged, has been firmly defended by the courts in the interest of national security. Courts have also been hesitant about applying international human rights laws and norms in Malaysian courts on account of the State’s hesitance at ratifying core human rights conventions.

Additionally, the system of criminal justice which is generally weighted in favour of the prosecution (e.g., very limited pre-trial disclosure rights, very little victim participation and the admissibility of illegally-obtained evidence. The recruitment of judges to subordinate courts, from the judicial and legal service gives cause for concern. The service which allows for the frequent interchange of judges and prosecutors, creates perceptions that criminal justice is being dispensed by prosecutors and judges from the same legal service.

An assortment of obstructions to a migrant’s access to justice and disregard for universally accepted fundamental rights upon arrest arise as a result of the integration of these functions. The sanction of the Attorney- General is granted to immigration officers without legal qualifications to prosecute. Migrants and refugees charged are not provided with legal representation. The prosecution and sentencing of migrants and in special immigration courts which have been established in remote parts of the country within detention camps that are designated as protected areas, prevents migrants, illiterate in the Malay language from communicating any need for assistance. The jailer is the prosecutor and the authority responsible for hastening or delaying deportation upon completion of sentence.
In cases of civil action by migrant workers against their employers or agents, again notwithstanding the validity of the action, the Home Ministry frequently pre-empts any action by migrants by hastening their arrest and deportation. Sathiyamoorthy s/o Karunthappan was a migrant worker with TG Medical plc. After a vat of acid spilled on him he was hospitalized for several months. He was uninsured and during this time his services were terminated for absence and his employment pass terminated by the employer. He became irregular. He lodged a complaint of unfair dismissal, which was called up before the Industrial Court several months later. Upon his attendance in Court, immigration officers accompanying the employer, arrested him. He was prosecuted, convicted, served time and deported. The best the trade union could do for him was to negotiate a nominal settlement which did not take account of the personal injuries he suffered making him impotent.

Detainees at immigration detention centres have reported that they are subject to an assortment of humiliating and degrading treatment. Some examples are having to sleep next to a faulty and filthy toilet which had no water, having to show proof of soiled diapers or menstrual pads in order to obtain fresh supplies, being pinched and slapped because they did not understand instructions by the guards, having their belongings searched on a daily basis, being given only a small cup of water twice a day and food that was either a small amount of soggy rice and fried anchovies and for dinner, a slice of tomato, an egg and clear cucumber soup and etc. They were also allowed to shower only once a day with very little water and without soap or shampoo. These conditions had to be endured sometimes for as long as three to six months.

The 1st principle of the Report of the independent expert to update the Set of principles to combat impunity, Diane Orentlicher describes the general obligation of states to “meet their obligations to investigate violations; to take appropriate measures in respect of the perpetrators, particularly in the area of justice, by ensuring that those suspected of criminal responsibility are prosecuted, tried and duly punished; to provide victims with effective remedies and to ensure that they receive reparation for the injuries suffered; …”

The Malaysian Government’s resistance towards meeting these obligations might be justifiable by arguments that it has not ratified the Rome Statute and that therefore it has no obligations to combat impunity. In any event, it could well be argued that these complaints do not form part, either of a government policy or of a wide practice of atrocities tolerated or condoned by a government.

The Rome Statute defines Crimes against Humanity, as particularly odious in that they constitute a serious attack on human dignity or grave humiliation or a degradation of one or more human beings. They are not isolated or sporadic events, but are part either of a government policy (although the perpetrators need not identify themselves with this policy) or of a wide practice of atrocities tolerated or condoned by a government. The statute further defines crimes against humanity as among others,

(d) deportation or forcible transfer of population;
(e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
(g) sexual violence of comparable gravity;
(i) Enforced disappearance of persons;
(k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health

The Malaysian Government alleges that it is not opposed to the ICC, but has adopted a “wait and see” approach to ratification. The Malaysian Government had signed the Final Act that created the Rome Statute (although not the Rome Statute itself). This entitles the Malaysian Government to contribute towards the ICC’s evolution but its main concerns over ratification are reputed to be, i) the wide-ranging suggestions that had been mooted for inclusion in the definition of the crime of aggression, including terrorism, and drug trafficking.

ii) a lack of knowledge of the mechanics of the ICC, and some scepticism amongst lawyers trained in prosecution in the common law system, over some of the civil law influences in the ICC, such as the supervisory role played by the ICC in the investigation and pre-trial
iii) the implications on sovereign immunity; and
iv) the impact of the principle of complementarity, specifically the additional obligations that will be expected of Malaysia, and thus the need for enabling legislation; and
v) the longer-term impact of whether Malaysia had the capacity to prosecute crimes of this magnitude, if it became necessary.

And yet, during the 6th Consultative Assembly of Parliamentarians on the ICC and Rule of Law which concluded in Kampala, the Minister of Law and Parliamentary Affairs of Malaysia, Mr. Mohamad Nazri announced that the ICC accession bill will be tabled before the Cabinet of the Government of Malaysia upon his return to Kuala Lumpur.

Civil society organizations in Malaysia are familiar with announcements of this nature. They are also familiar with the deafening silence on the issue which frequently follow such announcements.

In conclusion, the challenges for human rights within the civil society efforts towards migrant rights in Malaysia continue to be the successful campaigns promoting xenophobia by the state, the demonization of “western influenced” human rights thinking in Muslim majority Malaysia and the consequent lack of interest in human rights capacity building.

[1] The writer is an advocate and solicitor in Malaysia
[4] July 8, 2008 (Bernama)
On behalf of the International Trade Union Confederation, I offer you my apologies for not being with you in person today. I have not been able to get free from my duties in the discussion on employment, for ALL workers, including domestic workers, at the International Labour Organisation, at the same time as you are meeting. I know you will forgive me for this, as domestic workers know very well the clash of multiple tasks. I send you the solidarity of the international trade union movement to this event AND for the realization of the rights of ALL domestic workers.

Domestic workers are the “oil in the wheels” of society. Without domestic workers, many of the well dressed businessmen of Geneva would be wearing crinkled shirts instead. Without domestic workers many other workers, men and women, would not be able to manage their working lives or their homes. Domestic workers take care of children and the most precious family members; they cook and clean and make sure so many homes function well. Domestic workers are too often an invisible work force, that enables others to do their work, without having to worry about household duties.

We hope that this event today, and the work being undertaken at the ILO these weeks, ensure that domestic workers are no longer invisible and are fully recognized for who they are….workers.

In the ILO this week, we are negotiating an international Convention for domestic workers. Our concern is that all domestic workers are recognized as workers – regardless if they are migrants or nationals, if they are have official papers or not, if they are working full time or part time. We will ensure that all domestic workers are protected by this Convention, including those who work in diplomatic households – of which there are many here in Geneva.

Really, we are not asking for much. We are asking that domestic workers should be treated equally, as any other wage earner. They should enjoy the same rights. The salaries they earn should provide for a decent life. But in fact, this is an historic demand. In many countries, domestic workers have never been recognized. Never before, have domestic workers together been covered by international law. It is time!

We congratulate the Swiss trade unions for their achievement to have a binding collective agreement for domestic workers in Geneva. Today, we add our voice to support our sisters and brothers in the Swiss trade union movement to achieve a Swiss-wide binding collective agreement.

We are impressed by the numbers of organized domestic workers in Geneva. We know that there is a link between the number of organized domestic workers and these achievements. Domestic workers’ trade unions and associations worldwide formed an International Domestic Workers Network. The Network is closely working with other NGOs and their networks and they are here today. Thank you for being here and for your hard work and lets ensure we continue our partnership together to fully realize our common objective, the full recognition and dignity of ALL domestic workers.

I am impressed by this giant apron, which consists of over 3,500 patches, which each represents a domestic worker from Asia with her demand. I hope, next year, we will have MORE giant aprons from other regions of the world AND a convention that acknowledges and protects the role and rights of ALL domestic workers around the world.
Annex XI

Back from Geneva
By Bridget Lew Tan

Good morning Singapore! It is the wee hours of the morning, here in Singapore, and indeed since my return, my bio clock is still re adjusting. A good thing too because I was able to work through the night getting HOME’s annual report done in time for the AGM. The AGM is done with and I will continue (because nobody wanted my job) as President of HOME for another two years.

And this means basically, I may have the chance again, God willing, to witness the final victory for domestic workers all over world when the proposed draft of the Convention on Decent Work for Domestic Workers supplemented by Recommendations becomes adopted by the International Labour Conference in 2011.

The Geneva experience was an eye opener to see how tripartitism works globally. The employers, the workers and the States discussed, debated and disagreed. In that event, a vote is called and the majority rules. Fortunately for domestic workers, the African Continent and the Americas are in favour for the Convention for Decent Work for Domestic Workers. The US and Brazil spoke very vigorously for the Convention. Good for the United States for on July 4th they will be celebrating their Independence Day. The European states were also more in favour than against though they had some reservations over the proposed terms. Australia and the Oceania were also in favour of the Convention supplemented by Recommendations.

Asia did not shock me that they were just not ready to recognise that Domestic Workers should be treated equally like other workers. It takes an Asian to understand the Asian patriarchal mentality. The Gulf States, India, Indonesia, Singapore, Malaysia, Japan were all more in favour of just Recommendations. They seemed to fear the lack of flexibility, if domestic workers are treated equal to other workers. I would have thought that India would have been more willing to lead the Asian pack, in the right way since monumental giants like Mahatma Gandhi and Nehru came from India. That Indonesia should not support the convention upset many Indonesian NGOs and worker groups. “I would protest when I am back”, said my Indonesian friend who happened to puff between her utterances. And of course, just look at the horrendous way; some Indonesian domestic workers are being treated in other countries, just across the waters.
As for Singapore, I was not surprised at all that our state would not want a convention. It takes a Singaporean to know our way of life. Yes, our employers would be most unhappy, if domestic workers are allowed to take maternity leave or be entitled to Sunday, overtime and holiday pay. The NTUC slogan this year on their t-shirts reads ‘cheaper, faster, better’. Perhaps it truly speaks of how employers would expect of their domestic workers. But after all those disgusting absurdities, I was absolutely impressed with one Singaporean, Ms Halimah Yacob who spoke with such conviction and passion on behalf of domestic workers that she received a standing ovation—from the worker groups and NGOs, naturally. Ironic, I must say, Singapore vs. Singapore. Among Asian countries, I was happy at least that China (maybe a fortunate mistake), Thailand and Sri Lanka supported a Domestic Worker Convention supplemented by Recommendations. The Philippines was, of course, the state championing for a Convention (the only country who did not ask for Recommendations) – and rightly so for they have the international reputation of both protecting labour and exporting labour to keep their coffers ample.

Back from Geneva and back to the ground – what does all this mean to the domestic worker? I happened to chat with a domestic worker in my neighbourhood, just last Sunday. Are you not taking a day off today? No, she said, I only get one day off in a month. How long have you worked for your employer. Seven years, she said. And why do you still want to work for them? She said ‘No choice’.

Would an international instrument give the domestic worker choice? Would international labour standards provide the children, rice for their bellies and books for their brains? Moral leadership is simply to do the right thing and it is hard for anyone to understand that a human person would not give her domestic worker a weekly rest day; a country would have laws that deny a woman her maternal rights; or a world that would support a culture of slavery, where a person has no choice but be compelled to work in conditions that deny her the right to worship her God weekly, for seven years.

So Geneva, here I come 2011, hopefully the world will be ready for a better world for all especially domestic workers.
Global convention on domestic workers soon?
Workers' representatives support ILO convention; employers favour recommendations

By JOHN GEE

THE International Labour Organization (ILO) is in the process of discussing a body of labour standards that have a particular relevance to Singapore.

They cover a broad range of issues such as time off, freedom of movement and communication, overtime work, the right to retain personal documents, and a host of other standards and protections. They could become the first international convention on domestic workers, a category of workers who are among the lowest paid and least protected by law across much of the world and who are employed in one in six homes in Singapore.

The ILO is one of those bodies that gets on quietly with its work without ever attracting much attention. Every year, its governing International Labour Conference (ILC) meets, deliberates on initiatives concerning workers and reviews its own work in unintentional obscurity.

There is something very tortoise-like about its proceedings. A proposal for a convention leads to a process of worldwide consultation with interested parties - governments, trade unions and employers' organisations - that lasts for a year, after which responses are collated and a draft text is circulated.

The ILC, at the next appropriate annual meeting, votes on the form of the 'instrument' under consideration: Recommendations encourage governments to adopt specified standards, but are nonbinding, while a convention sets standards that signatories are meant to implement once they sign up.

A gruelling process of amendment occurs over a period of days; to the casual observer, it would seem that no term is too commonly accepted to go unchallenged, no comma so innocent as to go unchallenged.

The convention or recommendations are tidied up, sent out again, discussed by those interested in them and then submitted after one further year to another ILC meeting. Finally, ILC members vote to adopt or reject the new instrument.

This is still not the end of the process. States that ratify a convention are supposed to implement it, but the process of ratification can go on for years before the convention is considered to have come into force internationally; with a few, it doesn't happen.
Much depends on whether it has the right blend of rights, principles and practicality. The impact that a convention will ultimately have on daily life on Planet Earth then largely depends on how motivated states are to implement the decisions to which they have put their names, as Singapore argues in defence of its cautious policy towards convention adoption.

The disadvantages of this plodding progress need no elaboration, but it has justification. The positions of all the parties are clarified; an 'instrument' normally emerges that has been finely tuned and has a weighty body of support.

In June 2010, the ILC reached the point of deciding on whether the proposals presented to it should go forward as a convention or as recommendations. Workers' representatives unanimously supported a convention.