

International Campaign for the Rights and Recognition of Domestic Workers

8-HR Campaign

Background and Rationale

A vast majority of the UN-estimated 60 million migrant workers in Asia are women, and the issue of domestic workers (DWs) in the region is hardly new. In most cases, these women are engaged in domestic work in Malaysia, Hongkong, Singapore, Thailand, Macau, India, Taiwan and the Middle East. Most of them come from Indonesia, the Philippines, Bangladesh, Nepal, Sri Lanka, India, Thailand and Lao PDR.

The 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. For most of these women, they are driven out of their own countries in the hopes 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 standardised – 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. Domestic workers also lack access to health care and holiday facilities. There are also child migrant domestic workers who are deprived of getting education.

Furthermore, despite the significant contributions of women to their households and families (both their own and where they work), to communities and countries (both of origin and destination), and to the industries and economies to which they selflessly invest their time, skills, sweat and tears, these women have yet to enjoy the recognition they have so long deserved. Domestic work is yet to be fully and widely recognised as work – i.e. that domestic workers are yet to be covered by labour laws that protect and promote their rights,

welfare, and dignity; that their work is 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 at par with other job categories including valid work contracts and visas, social mobility, job security and collective labour rights.

Most receiving countries do not have legislative means to protect domestic workers and many do not consider domestic work as work. Even in those countries where domestic workers are protected by labour legislation and recognized as workers, problems of lax enforcement as well as partial or discriminatory application of the protective laws are prevalent. As a result, DWs are subjected to discrimination and abuses that other workers may not face. They often face the following issues: lack of national legislations that extend the rights of workers to DWs and specifically address their situations; vulnerability to physical and sexual abuse, violence and discriminatory policies; the framing of language surrounding domestic workers; recruitment related abuses; deplorable working and living conditions; passport withholding and other restrictions on movement; immigration policies in receiving countries that serve to deepen their vulnerability like the *Kafala* system; racist and sexist social attitudes towards MDWs; trafficking of women and children domestic workers; and lack of legal mechanism to seek redress. The vulnerability to abuse, exploitation and trafficking consequently creates the danger of health hazards, especially HIV/AIDS and STDs.

Given the above, Migrant Forum in Asia and the Asian Migrant Domestic Workers' Alliance (ADWA) launched the 8-HR campaign which the International Working Group for Domestic Workers (IWG-DW) has also taken on, raising the campaign to the international level.

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What is the 8-HR Campaign?

“8-HR” refers to the defining elements that must be guaranteed so that we can say that domestic workers are properly recognised as workers. Although widely accepted as principles for workers in general, these are the same leading elements where domestic workers, especially migrant domestic workers, are excluded from, denied or given only in restricted/ degraded terms.

The campaign works towards the implementation, and not only acceptance, of these elements/principles for domestic workers in particular.

Objectives of the Campaign

General

Advocate for national, regional (Asia), and international policy and practice changes promoting the recognition of domestic workers (DW) especially along the three 8's and 8R's demands.

Specific

- a. Launch and spearhead the “8-HR campaign” (Int'l campaign for the rights and recognition of DW) as a DW-led campaign bannering the “8-HR” demand as a basis for rights-based, just and gender-fair recognition of DW as work.
- b. Strengthen the consensus and support for the 8-HR demand; promote and ensure that the 8-HR demand becomes a key basis of national, regional, international policy agendas/ positions pushed by IWG-DW and partners.
- c. Advocate for the adoption of national, regional and international policies – primarily an ILO DW Convention – based on the 8-HR demand and consensus position of DW and campaign partners.
- d. Link the international 8-HR campaign with the regional campaigns of IWG-DW members/partners in order to reinforce, improve coordination and enhance the effectiveness of both the regional and international campaigns.
- e. Strengthen the regional and international alliance and self-representation of domestic workers – especially ADWA, RESPECT, IWG-DW, and their member/component orgs;
- f. Help build the advocacy capacity of DW representatives

and partner-organisations so that they are able to spearhead the 8-HR campaign at the national, regional, and international levels;

g. Build alliances, solidarity and partnerships among the domestic workers (local and migrants), and with trade unions, migrant movements, civil society, social movements and DW advocates.

h. Increase public awareness and support of domestic workers' issues, esp on the respect and recognition of domestic work along the 8-HR demand.

Responding to Needs

Need to counter gender stereotyping and oppression of domestic workers

Domestic work is stereotyped as women's work and an extension of women's unpaid labour in the household. In line with this, domestic work has grown into a massive local and global industry engaging mostly women, and also children. Consistent with the gender stereotype and oppression, domestic work is also classified as 'unskilled work', largely without proper contracts and terms of work, and among the lowest paid. Reports by several human rights bodies have concluded that a significant number of domestic workers in Asia are in situations of forced labour or contemporary forms of slavery. Domestic workers – the workers as people, the value of their work, and their contributions to society – remain largely invisible in society, even in the labour and women's movements in Asia.

Need for definitive international standards for the rights and status of Domestic Workers

A critical step for the campaign is the establishment of international labour and human rights standards specific to DWs. 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 United Nations instruments, and the fundamental ILO labour standards, can and are being used by DW groups and advocates in asserting the rights and status of DWs as workers. Foremost among these are the CEDAW and the Migrant Workers Convention. Various ILO Conventions (e.g. C.1 on regulation of hours of work, C.2 on maternity protection, etc.) are also invoked by DWs and advocates.

General Recommendation 26 of the CEDAW Committee, in which the migrant DW representatives intervened and submitted petitions, is one of the most explicit United Nations

instruments promoting women domestic workers' rights. This needs to be promoted more widely especially among migrants, DWs and policy-makers, so that the instrument is translated into actual operational mechanisms especially at the country level to protect women migrants and DWs.

There are also normative UN declarations (e.g. the 2001 WCAR declaration) that recognise discrimination against and promote equal treatment of MDWs.

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.

The adoption of an ILO Convention on Domestic Workers is a strategic step forward. The revival of this agenda in the ILO provides a historic opportunity to formally recognise domestic workers as workers, affirm their basic rights and equality of status with all other workers in society, and establish minimum standards of treatment and protection for domestic workers.

Domestic workers' groups, civil society and trade union advocates, specifically the proponents and implementing partners of this project, welcomed this ILO initiative and consistently engaged the process in the past four years. These groups pushed the ILO and its tripartite partners to seriously pursue this agenda, and initiated or supported processes in Asia and globally for domestic workers (local and migrant) and advocates to intervene in the ILO process, build consensus and common positions, link domestic workers with labour groups, jointly organise public actions, and start the global campaign for domestic workers' rights and recognition.

These efforts (using CEDAW, MWC and existing international instruments to protect DWs, and advocating for a new ILO convention for DWs) were initiated despite the tremendous difficulty and lack of resources in reaching out and helping organise and empower domestic workers – DWs being one of the most marginalised, informalised, and therefore unorganised, sections of the labour population in Asia.

Need to ensure participation, self-representation and empowerment of DW in the standard-setting process

Because domestic workers have been marginalised and informalised, and their rights as workers are not universally recognised, they don't have long-standing organisations and mechanisms to assert their direct participation and representation in the standard-setting process. Therefore, as the ILO process unfolds, it is urgent and critical that domestic workers themselves – not only the advocates and civil society

– are centrally involved in the process. Otherwise, the non-recognition and marginalisation of domestic workers will be reinforced.

Trade union and civil society partners need to more intensely build solidarity and partnership with DW organizations in order to continue to build up the capacity of domestic workers' groups, strengthen their organisations, sustain their intervention in the ILO, CEDAW Committee and other United Nations bodies, and intensify the general campaign for the rights and recognition of the value and status of work of domestic workers. Otherwise, domestic workers are left out of the whole process, reinforcing their marginalisation.

The empowerment and advocacy work done in the past four years need to be intensified, in order to bear on the ILO process, and create more pressure on the relevant U.N. bodies. The recognition of the rights, status and value of domestic workers have to be mainstreamed and institutionalized in the international, regional and national human rights instruments and mechanisms.

Need to sustain advocacy at the ILO towards adoption of a DW Convention

In 2010 and 2011, the ILO standard-setting process will enter a critical phase, when the world body will decide on the kind of instrument to be adopted, and on the actual standards of protection for domestic workers.

But even as governments, workers' groups, and employers have caught on the proposed ILO Convention on Domestic Workers discourse, a significant sector remains highly vulnerable and conspicuously invisible: domestic workers themselves.

Domestic workers, and even their partner NGO and civil society advocates, are not recognised parties to the ILO's tripartite process. This further emphasises the irony that at the critical juncture where the fate of the proposed ILO Convention supposedly for the recognition of rights and status of domestic workers rests in the hands of governments, workers' groups, and employers, the intended beneficiaries of such a Convention are relegated to the sidelines where their voices and their demands may not even be fully heard and duly considered.

Consultations with the DWs themselves have been done at the national and regional levels to generate responses to the ILO questionnaire toward a possible ILO Convention for Domestic Workers. These consultations were done in collaboration with our partner trade unions and civil society organizations. These processes, as well as collaborative efforts with ILO social partners must be sustained.



Why 8-HR?

In calling for “8-HR”, we demand that these key elements are guaranteed for domestic workers, in equal terms, treatment and status as all other workers.

Recognition of domestic work as work means that the following 3 fundamental aspects of domestic work have to be recognised and guaranteed for domestic workers (local and migrants), at par with all other workers:

i. 8-hour principle

The current structure of the work hours of DW is one of the fundamental aspects that we must break/change and make consistent with international labour principles and standards. This is one of the first and most basic aspects of DW that we have to challenge. We need to make sure that national and international policies guarantee proper work hours for DW, like all other workers. The modern labour movement was founded more than 100 years ago precisely on the fight against slavery-like treatment of industrial workers, especially excessive working hours, on the recognition in the humanity of the working person and on the need to ensure a proper balance between work and leisure. If the 8-hour standard work hours are not guaranteed for DW's, DWs will forever be in slavery-like situation where employers fully control and exploit the labour hours of DW's.

This is a result, among others reasons, of the unregulated working hours of DWs, who are on call anytime by employers. This is also a result of the fact that oftentimes, domestic workers live in the employer's home, which causes the lines between work and leisure to blur. Recognising DW as work means that the basic principle of the 8-hour work standard – enshrined in ILO Convention #1 – must be explicitly guaranteed for domestic workers. DWs must be governed by the same working-hour standards and principles as other job categories – i.e. 8-hour standard work hours and 8-hour guaranteed sleeping period; such must be agreed between worker and employer at the date of signing of contract, and will be considered as overtime work; overtime work is subject to international limitations and standards of payment.

ii. “HR”

Domestic workers rights are human rights.; the right to be workers with basic labour and human rights equal with all other workers/people in society; equal pay for equal work; non-discrimination; freedom from slavery;

iii. “8Rs”

These are 8 aspects of work which workers in the world generally enjoy; however, due to gender-bias against domestic workers as unpaid/unskilled women's work, discrimination and non-recognition of domestic work as work, there are 8 areas which domestic workers are denied, excluded or discriminated against;. Therefore these '8Rs' are determinants of the non-recognition or second-class treatment of DWs.

The

Rights & redress

This refer to labour and human rights of domestics workers , especially the right to a legal and binding employment contract; equal and gender-responsive treatment, coverage and protection of DWs under the national labour protection laws and international labour standards; the right to organise, unionise, bargaining; including the right and access to proper redress and compensation for violations of these rights.

Regulate Recruitment

Studies and reports revealed that the abuse and exploitation of migrant workers happen not only in the host countries. The abuse happens before they even leave home. Most often agencies work in direct contravention of national laws, facilitating women’s crossing of borders and most often provide false promises placing women in clandestine domestic settings, illegal sex work or exploitative sweatshops-practices that amount to trafficking. The recruitment channels for foreign domestic workers should be legal, safe and affordable.

Retirement and i

Social security, accident for DWs on equal terms v

Rest & i

This refers to the right of hours, rest days, leaves and s

Reproductive, fa

This includes pregn family unification, repro services, access and pro

R

This refers to fair and decent wages b and other merits – similar treatment qualifications;

8Rs

Insurance protection

protection, OSH protection
with other workers;

Recreation

of domestic workers for rest
; right to leisure, recreation
social life

Family & health rights

ancy/maternity protection,
productive health; health rights,
protection;

Remuneration

based on multiple skills required by DW, work hours,
as other job types paid based on the merit/skills/

Residency & mobility rights

Residency rights like other foreign workers/expatriates whether short term or permanent both for migrants and their children. This means security of residence in host countries during the period of a contract, protection against arbitrary detention and ease of transfer to other employers (right to change employer, improve/change job qualifications, vertical and horizontal job mobility) and abolition or revision of the unilateral right of the employer to terminate a contract. These are all rights and protections relating to the short and medium terms that have an immediate impact on domestic workers' ability to improve their position right now under many jurisdictions.

Return & reintegration

This right is specific for migrant domestic workers. This means right and support to return back home, stay and reintegrate in community of origin. Reintegration of migrant workers is one of the serious problems that CSOs face in their advocacies. There are no sustainable reintegration programs available for returnees. There is also no follow-up done for returnee migrants which would ensure their effective reintegration to their respective countries. By reintegration we mean addressing the issue from the aspect of economic, social, political and the role of the state in terms of skills/trainings, savings.



**Migrant Forum in Asia (MFA)
Asian Migrant Domestic Workers Alliance (ADWA) c/o MFA**

MFA believes that migrants' rights are human rights. Documented or undocumented, irrespective of race, gender, class, age and religious belief, migrant workers' rights are guaranteed by the UN Declaration of Human Rights, the UN Convention on the Protection of Rights of All Migrant Workers and Members of their Families and other international conventions.

85-C Masikap Extension
Central District, Diliman
Quezon City 1100
Philippines

Tel: (+63-2) 928-2740
Telefax: (+63-2) 433-3508
Email: mfa@pacific.net.hk
Website: <http://www.mfasia.org/>