**Migrant Domestic Workers & Human Rights Concerns in the GCC**

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Improving labour rights protections for migrant domestic workers in the GCC region has been a long-standing goal of migrant communities, civil society, labour unions, intergovernmental agencies, and the governments of countries of origin. The adoption of ILO C189—a landmark convention addressing serious gaps in the international legal regime—offers an important foundation upon which to work towards the realization of decent work for domestic workers worldwide. Gains have been made on this front in the policy frameworks of many countries, yet work towards meaningful protections of labour rights for domestic workers remains a significant challenge in the GCC region.

Calls for enhanced labour rights protection in this region are inseparable from wider calls for human rights protection for all, including migrant workers. When their basic human rights are protected, migrant domestic workers are better equipped to organize, to call for their labour rights, and to hold host and home country governments accountable for the unfavourable conditions in which too many work and live. Strong calls for ratification of the International Convention on the Rights of All Migrant Workers and Members of their Families and ILO Convention 189 on Domestic Work by the governments of the GCC countries are necessary.

**Migrant domestic workers: Stories of rights violations are far too common**

Domestic work is often pointed to as one of the most dangerous sectors for migrant workers in the Gulf countries. The array of rights violations has been well documented by civil society, trade unions, academics, and intergovernmental institutions. The vulnerabilities of women domestic workers stem from entrenched social norms about women and gender stereotypes regarding domestic work as women’s work, domestic work as unpaid work and poor enforcement of the protection that do exists.

They are discriminated and in most case excluded from labour laws of the destination countries which leaves them without legal rights to a minimum wage, overtime pay, paid leaves, freedom of movement, to unionise and benefit from social protection. If they are included in recognition and protection, it is only to a certain degree and enforcement is often problematic. The exclusion of migrant domestic workers in the national labour laws and lack of specific regulations that will protect them, render domestic workers vulnerable to unequal, unfair and often abusive treatment.

The problems are well known. Governments of sending countries understand the risks very well. Some have taken action by pursuing bilateral agreements or memoranda of understanding to set out the basic rules of engagement for migrant labour recruitment. These instruments are often lacking in rights language, and in many cases workers are unaware of, or unable to access, their rights. Other countries have implemented protectionist policies[[1]](#footnote-1) which in most cases are disempowering for women, violate their right to mobility and employment. Reports show and interviews with women migrants revealed that protectionist policies are at times lead to irregular migration.

Age- employment ban for women and temporary employment ban are prevalent policy measures being adapted by countries of origin for those women who wish to migrate to the Gulf region for work in an attempt to protect young women from exploitative conditions, based on a conflation of the root causes of vulnerability with age—i.e., that somehow young women are more susceptible to mistreatment than women over the age of 30. This kind of policy response fails to account for the systemic causes of vulnerability for all women migrant workers, particularly domestic workers, and offers no rights-based solutions. Restricting women’s mobility further is not a way forward.

**The labour migration regime must be grounded in a human rights framework**

A number of countries in the Gulf and Middle East have reformed laws and policies related to migrant domestic workers over the last few years. Bahrain and Jordan have expanded parts of their labour laws to apply to domestic workers, and standard unified contracts have been developed in Kuwait, Oman, and the UAE, addressing some of the concerns migrant communities have been raising for many years. Bilateral agreements have been established between a number of Gulf country and origin country governments to regulate the recruitment of domestic workers, guaranteeing some minimum standards (e.g., wages, working hours).

Much work needs to be done to fill out the many gaps in this patchwork of labour policy reforms across the region. Where reforms have taken place, there remains a significant gap between the entitlement to labour rights protections on paper and the ability to see those rights realized in daily life. This is seen played out every day in the calls received by emergency hotlines for domestic workers in distress, the repurposing of space within foreign missions to serve as impromptu shelters, and the grassroots support networks of co-nationals that operate largely underground across the region.

Without meaningful protections of the human rights of migrants workers in the region, migrant domestic workers will struggle to see improvements in their ability to access decent work with its accompanying labour rights protections.

**Migrant domestic workers must enjoy the right to freedom of movement**

As enshrined in Article 39 of the Migrant Workers’ Convention, migrant workers, including migrant domestic workers, must enjoy the right to freedom of movement. The restrictions imposed on workers through the various interpretations of the kafala system, which ties workers’ legal status in the country to their employers and creates significant barriers to their ability to change employment terms, is often pointed to as the primary source of rights violations.

In addition, because migrant domestic workers often work and live in the homes of their employers, their physical mobility—even during “off” hours—is often monitored and sometimes restricted. In extreme cases, migrant domestic workers are prevented from communicating with friends, family members, or other support networks by the confiscation of mobile phones and lack of other means of communication.

How can domestic workers be expected to hold their employers to account for everyday labour rights violations if her right to mobility is not guaranteed? Access to justice is significantly impinged upon under such conditions.

In cases of emergency or crisis situations, repatriation of migrant domestic workers presents an enormous challenge because they are confirmed in the private homes of their employers and obtaining their exit permits prevents speedy and timely response. It should be recognized that the crises experienced by migrants every day create and increase vulnerabilities experienced in crisis situations. The strength of individuals will impact the extent to which they can act on their own behalf and on behalf of others when external crises occur.

**Migrant domestic workers must not receive discriminatory treatment based on nationality**

The increasing demand for domestic workers in the global labour market presents opportunity that is difficult to resist as it means more deployment means more remittances. When the issue of protection conflicts with the perceived benefits of deployment, this could easily lead to neglecting the preoccupation for protection. Countries of origin continuously compete with each other which in most cases result to driving down the wage level of their own workers. While there is an effort to work together, countries of origin particularly those part of the Colombo Process are yet to make to a bold step and commitment to have one unified voice to ensure the protection of all migrant workers.

The unrelenting competition among countries of origin, and workers themselves, for positions in the Gulf region has resulted in significant shifts towards the employment of less rights conscious domestic workers. While any country of destination is well within its rights as a sovereign state to determine who shall and who shall not enter and/or work in its territory, favouritism in the recruitment of workers from one nationality over another when skill levels are equal constitutes discrimination in hiring practices. Equal pay for equal work should be an observed practice.

The principle of non-discrimination is a cornerstone of both the human rights and labour rights regimes. Respect for this principle in labour migration laws and policies is necessary if migrant domestic workers are to be empowered to speak openly about their rights and claim that to which they are entitled. Knowledge of one’s rights should never be penalized.

**Migrant workers must be empowered to act collectively**

Across the Gulf region, we continually witness the closing down of migrant organizations, associations, and trade unions. This is happening on a very big scale in the GCC countries. Hundreds of community organizations have stopped meeting for fear of being held suspect. These crackdowns stem from a fear that organized migrants will engage in discourses that might threaten the security of the state, or that they will engage in actions that will interfere with economic, social, and political stability.

Article 26 of the Migrant Workers Convention guarantees all migrant workers the right to join trade unions. Without the ability to organize, freely associate, or take part in trade union activities, migrant domestic workers cannot support one another in learning about or asserting their rights. The inability to organize affects those migrant groups that are less vulnerable than domestic workers—e.g., highly skilled migrant workers employed in banking, medicine, engineering, and other highly specialized fields. These migrants (sometimes called expats) are often a much-needed source of economic and moral support for struggling migrants in difficult situations. They often intervene on behalf of their co-nationals with embassy officials when state-level assistance is required. Restrictions on organizing cripple the ability of these groups to provide or sustain this kind of support.

**Migrant domestic workers must never be subject to forced labour conditions**

Too often, deceptive and unethical recruitment practices result in debt bondage and forced labour conditions for migrant domestic workers. Exorbitant recruitment fees and contract substitution are so much the norm for jobs in the Gulf and Middle East that workers rarely question the practice and take on considerable debts, rendering them vulnerable to exploitation. The stress of debt as well as the aforementioned restrictions on mobility and organizing, create conditions that often result in forced labour.

Forced labour and slavery-like practices are not tolerated under the international human rights regime, and are expressly prohibited under Article 11 of the Migrant Workers’ Convention. However, the impunity with which private recruiters and employers operate in the absence of state-run recruitment and placement systems—as is largely the case for the Gulf region—make such situations commonplace.

**Way Forward**

For meaningful change to occur, Gulf country governments must urgently address the gaps in rights protections for all migrant workers and the specific needs of migrant domestic workers. The Migrant Workers Convention and ILO C189 are fundamental documents that set out their rights, and a wealth of support is available within the UN system for those governments that wish to make meaningful changes in their domestic laws and policies—beyond the establishment of rights on paper that are inaccessible to migrant domestic workers due to the context of their work or due to lax oversight on the part of those tasked with enforcement.

Critical policy issues that we need to look at:

Protectionist policies: How do we address protection of migrant domestic workers without infringing their fundamental right to freely move and secure gainful employment?

Kafala system: Some call for its abolition, while others call for some reforms. Where do we draw the line?

Standard employment contract: While the standard contract could not replace the protection that labour laws could afford, it could contribute to an improvement in living and working conditions of migrant domestic workers irrespective of nationalities. This will also address the competition among countries of origin.

Support for Missions/Embassies to make timely and speedy response to distressed migrant domestic workers. Governments need to allocate more resources to their missions abroad.

Government-to-government recruitment: As discussed above, migrant domestic workers experience abuses within the full cycle of recruitment process. Should we pursue this direction? What accountability measures should be in place to ensure that the labour and human rights of migrant domestic workers are respected and upheld? How do we ensure that human rights are recognised in G2G recruitment agreements.

Zero fees policy: No worker should pay recruitment fees to secure decent work

Zero tolerance for contract substitution

1. Recent protectionist policies: 1) India’s decision in December 2014 to collect a KD720 bank guarantee for every recruited domestic workers after Kuwait reportedly threatened to impose extra fees on Indian labor forces comingto Kuwait; 2) India’s 30-age limit for women migrants ; 3) Sri Lanka 2013 & 2014 Circulars mandating a compulsory Family Background Report to be completed by all women seeking overseas migrant employment in the domestic sector; 4) Nepal ‘s announced  in September 2014 about a temporary ban on allowing domestic helpers to travel to Arabian Gulf countries for work, pending the introduction of regulations that guarantee a safer workenvironment in said states; 5) Bangladesh’s 25-year old age limit for women migrants for domestic work in the Middle East and; 6) Indonesia’s moratorium and employment ban in Malaysia, Kuwait and Saudi Arabia due to mistreatment

   [↑](#footnote-ref-1)