



INTERNATIONAL DOMESTIC WORKERS' NETWORK

Myths & Realities

ABOUT DOMESTIC WORKERS

What **THEY** Say
And What **WE** Say



WHY DOMESTIC WORKERS NEED STRONG REGULATION FOR OUR RIGHTS

GENEVA, JUNE 2011



WHY WE WROTE THIS DOCUMENT

Over the past few years, something historic has been happening. The world's domestic workers have been mobilising, not only in our own countries and regions but also at a global level. Along with our supporters in the trade unions, migrant workers' support networks, anti-slavery and anti-child labour groups, etc., we are arguing for recognition for the work we do, for our rights as workers, and for our voice to be heard. Above all we need an end to the abuse and exploitation that so many domestic workers worldwide face.

One of our demands is for a strong international Convention for the rights of domestic workers, to be agreed by the International Labour Organisation (ILO) – the part of the United Nations that is responsible for employment matters.

Meeting in Geneva, Switzerland, in June each year, governments of the world sit down with representatives of employers and workers to negotiate over and agree international employment standards. They agree to Conventions which are binding on governments to implement, and Recommendations which give governments advice.

In June 2010, for the first time ever, governments, employers and unions spent two weeks discussing and debating over the first draft of an ILO Convention for the rights of domestic workers, accompanied by a Recommendation.

We listened carefully to what they said – the arguments used for and against us. Many governments and trade unions – and some employers – have come a long way and now understand our situation better and are supporting our demands. But some are still very hostile. Others only want standards which are far too weak. It often seems that they do not understand, or want to deny, how bad it is for so many of us.

So, this document sets out the key arguments they use against agreeing to a strong set of standards, and our replies to them. Our hope is that this will help win more supporters, especially at the International Labour Conference in June 2011, when the draft Convention and Recommendation will be debated in-depth again – and hopefully adopted.

After that, there will be much work for domestic workers and our supporters to do. We will need to get each of our governments to 'ratify' the Convention, that is to say, agree to put its contents into their national legislation, and then implement those laws properly.

So, we hope that the arguments we set out here will help domestic workers around the world to persuade more people of the rightness of our cause, and win the changes in law, practice and attitudes that we so deserve. For more information, also see the IDWN 'Platform of Demands' available from our website.

WHY DOMESTIC WORKERS NEED STRONG REGULATION FOR OUR RIGHTS

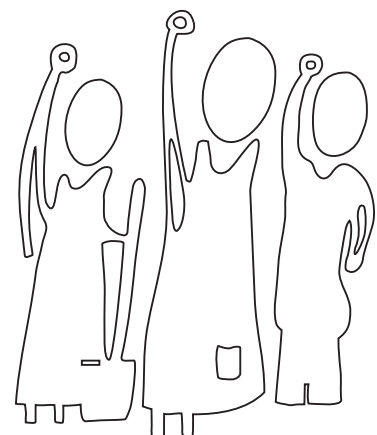
The fact that the workplace is a household should not deprive any domestic worker of her/his rights as a worker. Nor should it be an excuse for exploitation and abuse.

All the world's workers have rights, as stated by international instruments such as the United Nations Universal Declaration of Fundamental Human Rights. These include economic, social and cultural rights as well as labour rights under fundamental International Labour Organisation Conventions. That domestic workers have not had these basic rights respected until now is utterly unjust.

But we not only need an international ILO Convention that sets out our basic rights. We need one that breaks through the misconceptions about who we are and the nature of the work we do. No longer should our employers have all the rights and enjoy the freedom to continue bad practices.

Decent work for domestic workers is an effective way of reducing poverty for domestic workers, their families and communities. It will also lead to better quality of domestic work for millions of householders and their families worldwide.

This document sets out some of the key arguments used against us having a strongly-worded international ILO Convention and national legislation for our rights, and our responses as to why we must.



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What THEY say

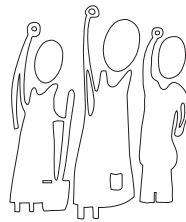
Is what domestic workers – or maids, servants or ‘helpers’ – do, really work?

Isn't it just what many women do around the world, helping out with the domestic chores?

And surely it is as much love and care as actual ‘work’?

”

What WE say



For far too long there has been a reluctance around the world to recognise that what domestic workers do in the homes of others is really ‘work’, and that those who do it are really ‘workers’.

Domestic workers are not ‘helpers’; we are not ‘maids’; and we are not servants. Certainly none of us should be slaves. We are ‘workers’.

Yes, the place where we work is the household, and that is a different type of workplace from a factory, a farm or an office. The scope of jobs that we do is wide – meaning in reality that many of us have a wide range of skills.

We also work in many different types of employment relationship, from live-in full-time for one household to part-time for multiple employers. It is not the usual concept of ‘industrial relations’ and this does mean being imaginative about finding ways to solve our employment problems.

Very often we also come across a blockage or resistance among those who employ us actually to see themselves as ‘employers’. We find it among government officials, company managers, even trade unionists and other social activists, as well as many others. In fact, many ‘ordinary’ people are employers of domestic workers. Having someone

else take care of their domestic environment enables them to go out and earn a living, be economically and socially active. They need us to maintain their homes and look after their children, sick and elderly.

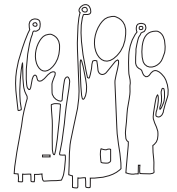
We are the ‘oil in the wheels’ and, without us, many societies and economies simply could not function.

But why so many do not see this or fail to accept the fact that they are therefore employers – with the duties of employers towards their workers – remains something that we still have to solve.

Of course, its roots lie in cultures – and therefore societies and economies – that see women’s roles as less ‘productive’, less ‘significant’, than men’s. We need more proactive public awareness-raising to shift such out-dated attitudes.

Domestic work is also an important source of employment and income for millions of, largely, women and therefore our families and communities. Upgrading domestic work will upgrade our lives and be a major help to rooting out poverty.

It will also upgrade the quality of the work we do for our employers and their families. It is potentially a win-win situation.



What WE say

Many people seem to have difficulty in acknowledging the exploitation and abuse that so many domestic workers face. They want to believe or promote the idea that we are or somehow become ‘family members’, almost always treated with kindness and consideration in the households where we work.

Of course there are good employers. But this is not a relationship of equals. Even when we are members of the same family, we are more likely to be the ‘poor cousins from the rural areas’, and this ‘family’ relationship can be used to mask the unjust ways in which we are made to live and work.

Failure to acknowledge the unequal power relationship that exists between householder and domestic worker only allows abuse to continue.

“ What THEY say ”

We accept that there are some terrible human rights abuses of domestic workers.

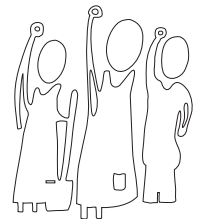
But most are treated well by their employers. We can’t make standards or legislation too detailed just to deal with a minority of cases.



“ What THEY say ”

We agree this is a question of human rights, and we do have to stop the abuse that many domestic workers face around the world.

But this means we need an international instrument which is quick and flexible – an ILO Recommendation. A long, wordy Convention will only lead to more argument and discussion rather than implementation and real improvements.



What WE say

No, it is precisely the lack of standards and legislation in many countries that has kept this sector invisible, and allowed employers to get away with abuse and unfair behaviour for all this time.

More ‘urging’ and ‘suggestions’ will not achieve the improvements we need, especially when ignorance and prejudice about our situation seem so rife.

We have to have a Convention – and strong follow-up into national legislation across the world – for only this has the potential to promote real change for the better.

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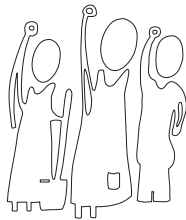
What THEY say

If we raise the standards of employment – such as giving domestic workers the right to a legal minimum wage – many employers will not be able to afford it.

They will stop employing domestic workers, and unemployment will rise.

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What WE say



The bottom line is that ILO Conventions exist to define minimum standards beyond which there should be no employment – because otherwise it would be slavery or forced labour. And we know that domestic work is one of the main locations of slavery, as well as child labour, in the world today.

So, we must have a Convention with binding minimum standards as a key way to end the human rights abuses against domestic workers that continue to this day.

But there is more to it than this. It must be recognised that domestic workers do vital work for households. Many families simply could not manage without us. Some do not have the skills needed. Or, if more families do all their own domestic work, will they still have the same capacity to work outside the home, to contribute to the wider economy?

Domestic workers deserve a level of pay which recognises this vital service that we provide, not just to individual households but to the wider economy and society. And including us in minimum wage legislation should be just that – the minimum, not the norm.

In fact, in countries where the legal minimum wage has been applied to domestic work such as South Africa and Tanzania, there has not been a significant loss of employment in this sector.

It will be true that some employers cannot pay a lot more from their own stretched household budgets. Where this is the case, the employer and domestic worker can sit down and discuss what is possible. The employer can say what their weekly or monthly budget limit is, and then together they can agree how many hours of labour this will buy from the domestic worker – at a rate which is above the legal minimum wage, and respects the collective agreement if one exists in their country.

Such negotiations are possible where employers and domestic workers have a relationship based on rights and therefore mutual respect and trust, rather than one-sided domination.

A regulated work environment encourages such mutual respect. It is for the good of all – employers and governments as well as workers.

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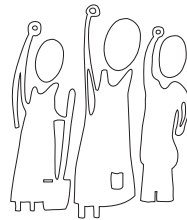
What THEY say

We support a Convention but it shouldn't have too many details.

Then it can be adopted by the maximum number of countries. Richer countries can implement more, but poorer ones do not have the resources to do so.

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What WE say



Facing an economic crisis, some governments – including from the richer countries – are afraid of taking on further commitments. They feel they do not have the resources to organise such things as social security, maternity benefits, occupational health and safety, and regulation of employment agencies. But these are part of key human rights as well as labour issues.

Governments should not adopt a simplistic attitude towards the added cost of giving domestic workers access to social security provisions or regulating migration better.

In those countries where employers can make national insurance contributions to cover their domestic workers, they should be encouraged to do so. Then they are putting into the government coffers to pay for it.

But even where domestic workers are not yet included in social security schemes, governments need to recognise the benefits of bringing us in – because then they do not have to ‘pick up the pieces’ later from the results of abuse and exploitation.



My country is Tanzania and the government, as poor as it is, recognised domestic workers in the Employment Labour Relations Act of 2004, covering them in minimum wage legislation, freedom of association, and collective bargaining.

And now it has started to include domestic workers in the social security scheme.

Imagination and commitment can help to solve problems which at first seem so difficult to overcome.”

VICKY KANYOKA, IDWN AFRICA REGIONAL COORDINATOR

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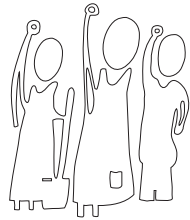
What THEY say

Legislating over working time in the domestic context is very complicated.

It's not possible to say what is 'work' time and what is 'personal' time, and so it is difficult to record working hours.

Also employers do need the right to insist that their domestic worker lives in so that they can call on them at any time. Being 'on call' is simply part of the job. ”

What WE say



Employers of domestic workers have got used to the idea that they are entitled to call upon their worker at any time, night or day. It is a result of their power over our lives, and there seems great resistance in some quarters to changing this privilege of 'entitlement'.

We have even seen it said that it is not 'practical' to compare domestic workers' need for rest, food breaks, and leave time with other workers. Why would this be so? We would like to agree that domestic workers are 'super-human', but the truth is that domestic workers get just as exhausted as any other people.

It should be possible for householders to organise their days around their domestic workers' need for rest and social activities, in the same way that employers in other industries and sectors have had to do. For the hotels, restaurants and catering sector, ILO Convention No.172, Article 4(1), says that "... the term 'hours of work' means the time during which a worker is at the disposal of the employer". Our Convention should say something similar, and so should national laws.

It may indeed not be so easy for some domestic workers to keep a log-book of their working time. However, it is not because we cannot distinguish between what is 'work' time and what is 'personal' time. We know when we are 'on call' and when we are free to go. Any difficulties that others have in distinguishing this may well come from their own confusion about whether this is really 'work' or 'love or care', as mentioned before.

Keeping track of time spent at work is something that could be assisted by more education and awareness-raising, among both domestic workers and our employers. Making model log-books available would also help this process.

Again, what are normal working hours should be mutually agreed and put into a written contract, signed by both the employer and his/her worker. The contract should also state clearly such questions as the right to annual leave and public holidays, as well as overtime pay.

The basic point is that domestic workers have the human right to be included in working hours legislation, not treated as slaves and servants who are endlessly available to our employers.

Plus there are practical ways in which governments can help make it a reality. They have done it for other care professions such as nurses and health workers. So they can do it for us too.



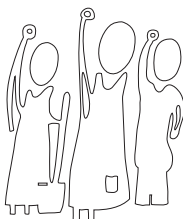
What THEY say

If working conditions become too good, this will only attract more migrants, which can generate xenophobia among our communities.

On the other hand, it is very difficult to manage migration, including the labour agencies involved.



What WE say



International migration of domestic workers, particularly of women, has been growing dramatically in certain parts of the world – especially into North America, Europe and the Middle East. For example, there is a huge need for at-home care workers in those countries where there is little state-sponsored care for the elderly and disabled, or such policies are oriented to ‘care in the home’. The resulting high demand for ‘care workers’ seemingly cannot be met by nationals alone.

Meanwhile, certain poorer countries, such as some in South and South-East Asia, now regard the remittances from migrant domestic workers as a vital source of foreign exchange. So, we should expect these migration flows to continue and even perhaps to increase.

And yet many governments, both in the sending and receiving countries, seem very unwilling to bring in regulation to protect these migrants. Probably, as well as xenophobia, many fear a run on their social security schemes if migrant domestic workers are given legal rights. As a result, they seem to become stuck, unable to take positive steps.

For example, many governments seem unwilling or unable to regulate the labour agencies which handle these flows of migrant domestic workers.

We have noticed governments engaged in lengthy discussions, apparently unable to distinguish between ‘one-off’ placements - where a household clearly becomes the employer - and on-going ‘triangular relationships’ - where domestic workers are placed temporarily and/or in multiple households, making it very unclear who is the employer - the agency or the household. It should, however, be possible to distinguish between these different situations within law. Where agencies are not properly regulated, the result is often gross abuse and exploitation.

In the absence of proper legislation and enforcement, employers are freer to exploit. Then, understandably, many migrant domestic workers run away from abusive employers. Often they become ‘undocumented’, especially where the employer has illegally kept their passport and other official documents. Such workers are very vulnerable: they join the ranks of the unemployed and homeless, and become prey to middlemen and trafficking. Such problems are more costly for governments and communities to solve than to prevent in the first place.

Better regularised migration with greater protection for migrant workers is in the best interest of both sending and receiving countries, as well as the workers concerned. It will lead to less abuse and fewer runaway domestic workers, as well as better relationships between countries.

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What THEY say

How would such regulations to protect domestic workers be enforced?

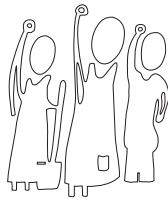
We can't have labour inspectors going into private homes.

This would violate the sanctity of the home. It is against our culture, as men who are not part of the family cannot go in to talk to the women of our households.

So, it is pointless agreeing to regulate so many aspects of domestic work.

”

What WE say



It is true that different cultures have different views of who can and cannot enter (or indeed leave) a household. But when someone decides to employ a domestic worker, they become an employer, and they have the legal responsibilities of an employer.

In many cultures, inspection of households is not particularly a problem. In Sweden, the Occupational Health and Safety (OHS) law was amended to include domestic work in households, and OHS inspection in a household can now be done at the request of one of the parties. Australia, Brazil, South Africa, Uruguay and the USA also have systems of labour inspection in homes. The ILO Convention on Labour Inspection (Agriculture) of 1969 (No.129) includes OHS inspection on farms, where there are also 'private' areas relating to households.

Such household inspection may require special training for inspectors. They need to know how to speak with domestic workers as well as employers. So it would surely be wise to recruit more women to be such inspectors, and indeed former domestic workers would be ideal for this role.

But household inspection is only one component of enforcement. There are other steps which

governments can and do take. Many of these can or should in any case be done prior to sending an inspector into a home, including:

- Awareness-raising programmes for employers – stressing their legal obligations as employers; promoting model contracts of employment and pay-slips, and information on social insurance schemes.
- Awareness-raising and training for domestic workers in their employment rights, occupational health and safety, etc.
- Hot-lines where domestic workers can raise complaints and seek advice.
- An inspection service which follows up complaints by first checking the employment contract and other elements such as whether or not the employer is paying social security contributions.
- Investigation bureaus where inspectors can call employers and domestic workers to meet them (i.e. outside the household), to inspect documents such as the contract of employment and wage slips, hold discussions, and issue notices to improve.

THE INTERNATIONAL DOMESTIC WORKERS' NETWORK (IDWN)

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DECENT WORK FOR DOMESTIC WORKERS!

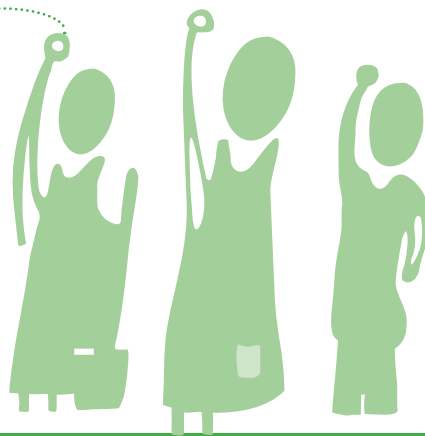
Domestic workers should not just be allowed, but encouraged and supported, to organise ourselves into democratic organisations.

This is the very best way to help achieve a well regulated living and working situation for us.

Then:

- We will no longer be isolated; we will gain confidence and awareness about our employment rights; we will be able to help to monitor and enforce the regulations.
- Governments and employers will benefit by having representative organisations with whom they can consult and negotiate.

Our
time is
come!



WHO WE ARE

The International Domestic Workers Network (IDWN) is made up of domestic workers' organisations and other trade unions around the world. Our Steering Committee comprises representatives from domestic workers' organisations, and we are provided with an organisational base by the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF). We are supported by the International Trade Union Confederation (ITUC) and other Global Unions, along with Women in Informal Employment Globalising and Organising (WIEGO).

www.domesticworkerrights.org