

GFMD Mauritius 2012

Round table 3.3 – Protecting Migrant Domestic Workers – Enhancing their Development Potential

Session Rapporteur's Summary notes

In his introduction, the Ambassador of the Philippines (Co-chair) said that the Roundtable aims to highlight the social and economic contribution of domestic work to economic growth and human development in countries of origin and destination, to enhance awareness about the ILO Convention 189 (C.189), to highlight gaps in data collection and analysis on migrant domestic workers and to encourage strengthening of policy and legal efforts and initiatives to protect domestic workers.

The Ambassador of Turkey (Co-chair) reminded the 4 discussion questions:

- Following the adoption of the Convention No.189, what are the steps taken or under consideration with regard to possible ratification and implementation of the Convention and other related standards?
- In what specific ways will legal and social protections for domestic workers benefit (a) governments of countries of origin, transit and destination (b) employers and (c) workers?
- Share at least one promising regional, bilateral, national, sub-national initiative - good policy and/or program - implemented to promote and protect the rights of domestic workers (a) prior to departure; (b) in the country of employment; (c) on return?. How did this concretely impact domestic workers? What were the key lessons learned - positive and negative?
- What are the key challenges do governments face to advancing legal and social protections for domestic workers? What kinds of assistance can civil society and international organizations provide?

Mauritius underlined the historic nature of C.189. While the legislation was considered being in line with the Convention, domestic workers needed better access to training, portability of social security entitlements. Better data on domestic work was needed. At present, Mauritius did not receive migrant domestic workers. The issue of labour inspection and the exclusion of enterprises with less than 10 employees from the labour legislation were challenges during the preparations for ratification.

Philippines stated that the main reason for ratifying C.189 has been the need to recognize the value of domestic work and the important contributions domestic workers make worldwide. Philippine domestic workers were working in the Middle East, Asia, and some in Europe, and their number had been increasing by 20 to 30 per cent of the last 2-3 years. C.189 provides a global set of rules, which could also become the basis for regional and bilateral agreements. Strong partnerships involving government agencies concerned, workers' and employers' organizations, domestic workers associations and NGOs were instrumental in bringing about ratification. Clarifying misconceptions about the Convention and effectively responding to any concerns raised with regard to its ratification and implementation had been essential. Agreement had been reached very recently in the Congress of the Philippines on new law protecting the rights of domestic workers. All countries, including countries of destination, were encouraged to ratify C.189 and to take practical steps to ensure protection of migrant domestic workers, such as written contracts, bank accounts, and assistance to domestic workers in distress.

In *South Africa*, domestic workers enjoy extensive legal protection, including in areas such as freedom of association, working conditions and social security, including in the case of unemployment. Migrant domestic workers, irrespective of their immigration status, are covered by the labour laws. Particular attention was paid to ensuring that their rights are enjoyed in practice, including through the Labour Department's enforcement and inspection unit. The Government was preparing to table new legislation regulating labour brokers, which is expected to reduce exploitation of migrant workers.

Indonesia expressed full support for measures to enhance the protection of domestic workers globally. Having already ratified the 1990 UN Convention, Indonesia, following support from the President and tripartite consultations, has committed to ratifying C.189 as well. Work was on-going to enact labour legislation governing domestic work, with the active involvement of civil society. Further, the migration legislation was being revised and domestic worker's training upgraded. The Government also seeks to offer alternatives seeking employment as domestic workers abroad, by implementing job creation programmes in regions from which large numbers of migrant workers stem from. Indonesia's efforts to protect domestic workers benefitted from the fact that the trade unions played an active role in this connection.

Ecuador highlighted that promoting enhancing the protection of domestic workers was an issue of equal opportunities. Many Ecuadorian women migrated to work as domestic workers, which had far-ranging social consequences for families and society as a whole. Allowing for family reunification was therefore an important matter. In Ecuador, domestic workers are covered by the labour and social laws and progress had been made recently in extending the coverage of social security. Several initiatives were launched to promote decent work for domestic workers, including better information for domestic workers and employers, as well as campaigns by the labour inspectorate to improve compliance.

Trinidad and Tobago mentioned that enforcing labour legislation in the domestic work sector posed particular challenges, including as regards ratification of C.189. The Labour inspectorate has recently established a special register of domestic workers, which assist in identifying domestic workers and their workplaces.

In his presentation, *Bangladesh* emphasized the protection of migrant women. It underlined the need for reducing the costs of migration and providing women with the required information so that they can protect themselves better. A standard contract is used in Jordan and Hong Kong. With the support of ILO and IOM, Bangladesh is of the opinion that the employers should be made more sensitive to the issue of migrant workers.

As regards the *European Union*, the European Commission is currently preparing a draft decision by the European Council authorizing EU Member States to ratify C.189. This was necessary since certain matters regulated by the Convention fell within EU competence. As many Member States were keen to ratify the Convention, the Commission seeks to complete this process in the coming months. The Commission welcomed the Convention as it reinforced its global approach to migration and the fight against trafficking in persons.

Ghana stated that a task force involving government agencies concerned, social partners, training institutions, employment agencies and domestic workers themselves had been established to study the current laws and practice regarding domestic work and to propose reform measures, as may be needed. Hence, though C.189 had not yet been ratified, there was a commitment to work towards ratification. Regarding out-migration for domestic workers, it noted that this had previously taken place under private arrangements, but more recently agencies had started to get involved and this therefore required attention.

The government was aware that close cooperation with social partners and civil society was essential for achieving greater protection for domestic workers. Specific strategies were needed to deal with certain form of domestic work based on cultural practices, such as child fostering. In the case of Ghana, this issue was addressed with programmes for the eradication of child labour.

Austria shared its experience in preventing and addressing abuse and exploitation of domestic workers employed by persons enjoying diplomatic immunities. In this regard, it was crucial to provide adequate information to workers and employers on the requirements under the Austrian labour legislation. Workers are being asked to collect personally their identification cards at the Ministry of Foreign Affairs which serves as an entry point for providing information and connecting them to NGOs that can offer assistance in case of need. As a means of prevention, written contracts are required, as well as opening bank accounts and providing the workers with a banking card.

Zambia stressed that as a State Party to the International Convention on the Elimination of all Forms of Racial discrimination (ICERD), its labour legislation did not discriminate against migrant workers. While C.189 had not yet been ratified, Zambia started to address domestic work. With a population of some 5 million, 9 per cent of the labour force was estimated to be in domestic work; this issue was addressed under Zambia Decent Work Country Programme which identifies job creation as a priority area. Following a decision by the Tripartite Labour Council, Zambia enacted a Statutory Instrument regulating working conditions of domestic workers in 2011, and the minimum wage was adjusted up-wards in 2012. In addition, domestic workers were covered by gender equality and anti-trafficking legislation. The Government is currently carrying out an in-depth analysis of the situation of domestic workers, with the support of the ILO, which is expected to pave the way for ratification in the near future.

Jamaica stated that it endorsed the Checklist to Protect and Support Domestic Workers which resulted from the regional workshops held in Jamestown and Accra in 2011, and invited other governments to do so. In the Caribbean, domestic workers were covered by freedom of movement as established within CARICOM. This categorization also ensures that the spouses of domestic workers are exempt from work permit requirements. In Jamaica, domestic workers associations played an active role, including in regard to promoting and preparing for ratification of C.189. While domestic workers were largely covered by a range of legislative instruments, some issues required further examination, including the need to have appropriate procedures for ensuring compliance. Jamaica called for addressing the issue of gender equality and women's empowerment in the context of the High-Level Dialogue in 2013.

Jamaica further noted that the National Policy for Gender Equality launched in March 2011, mainstreams gender into the public service; that is, a gender perspective is incorporated into the work of the Ministries, Departments and Agencies of the Public Service. The Jamaica Household Workers Association is engaged in specific programmes to educate and sensitize domestic workers --specifically migrant domestic workers -- to their right to their travel documents and contractual arrangements for work which respect their private time and freedom of movement during off hours.

IFRC underlined the necessity to provide support to the families of migrant domestic workers. She reminded that the situation of a large number of women is made invisible because of arranged marriages and that their situation may be very bad.

IOM lauded the practical measures taken by countries to ratify the Convention, highlighting the standard contracts as a good tool, but stressed that there are other measures to be taken with regard to legal reforms. It noted that some migrant domestic workers work in slave-like and isolated conditions with no access to legal aid. It advocated for reforms in the visa system to protect migrant workers, highlighting in

particular the immigration sponsorship system, where worker's visa is tied to the first employer making it impossible to leave the employment or the country without the latter's consent. It further advocated for legal systems to be put in place to provide civil remedies and legal aid for migrants in the event of a breach of contract, as well as strong oversight and monitoring of labour associations. It called for the strengthening of the criminal justice system and urged countries to take steps to ensure that criminal complaints are followed through.

IDWN underlined the fact that in Hong Kong domestic migrant workers do not hesitate to demonstrate and to fight to defend their own rights and suggested the same in other parts of the world.

Some conclusions:

- The ILO Convention is an improvement but it is not sufficient. National laws must be enacted or adjusted to ensure domestic workers' protection.
- The ILO Convention does not cover all situations of migrant domestic workers.
- There is need for more information and training of migrant domestic workers.
- Bilateral agreements and standard contracts are recommended to better protect migrant domestic workers.
- Strong attention about the situation of women and the families of migrant workers should be given by governments and other stakeholders.