

FES GENEVA REPORTS

THE IMPACT OF THE LACK OF SOCIAL SECURITY FOR DOMESTIC WORKERS AND THEIR FAMILIES

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Report on the panel discussion focusing on social protection as a human right and social security for migrant domestic workers and their families. This report was authored by Migrant Forum in Asia. FES thanks the authors and MFA for their contribution.

Panelists:

- Ms. Anke Fuchs, Chairperson, Friedrich-Ebert-Stiftung
- 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. Abdelhamad El Jamri, Chair of the UN Committee on Migrant Workers

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. The ILO is currently discussing possible ways to overcome this specific vulnerability and will hopefully agree on a legal standard to implement the decent work agenda for domestic workers worldwide.

In response to this, Friedrich-Ebert-Stiftung (FES), Migrants’ Rights International and Migrant Forum in Asia (MFA) organized a panel discussion entitled “Social Protection as a Human Right: Social Security of Migrant Domestic Workers and their Families” with the objectives to:

- 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: Have those policies 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?

Anke Fuchs

Opening the meeting, Ms. Fuchs welcomed the participants, coming from two parallel conferences – the session of the Human Rights Council and the International Labour Conference, to the debate taking place at a “crucial moment in time to discuss social protection for domestic workers” as those two conferences were meeting in parallel, both addressing the issue of social protection of (migrant) domestic workers. She pointed out the precarious situation in which domestic workers were living both, in developing and industrialized countries. While the formal responsibility lay with the states, she reminded that also every citizen had their own responsibility to rethink how the work done by domestic workers was valued.

She also referred to the similar roles trade unions and NGOs were playing in the defense of domestic workers’ labor and human rights – a role that needed to be strengthened and which the FES, in its work around the globe, was striving to support.

William Gois

Mr. Gois recognized that the event was very timely as the International Labour Conference was now discussing the proposed framework for convention for domestic workers. It was a historic event in the sense that the ILO discussed protection also for the informal sector. In these times, it was important to call for protection for domestic workers. He stressed that the discussion on the protection of domestic workers was very important given the fact of a demographic shift in the developing world where we are anticipating for an

increase on the numbers of domestic workers migrating and working in other countries.

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

Aldelhamad El Jamri

Mr. El Jamri talked about the work of the Committee on Migrant Workers around the issue of domestic workers. He shared that the Committee was particularly interested in this issue because of the vulnerability of domestic workers. He emphasized that the issue was 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.

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 added that the vulnerability and difficulties faced by domestic workers warranted the need for a specific standard to be set in the form of a convention. For migrant domestic workers, reintegration was also a huge problem. They would not have retirement benefits or be part of any pension scheme.

He stressed that international conventions were essential because they provided for follow-up and enforcement mechanisms. Monitoring and implementation were also crucial once the said Convention had been adopted and ratified by State parties.

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

He also added that there should be awareness rising 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. 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 NUDE 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 domestic workers were 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 the cases of sickness, accidents and other work-related injuries. In practice, domestic workers would not be registered in the national health insurance although deductions were 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 would unfortunately not be 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

John Gee

Mr. Gee began his presentation by sharing insights on the 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 were 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 needed to get insurance policy for domestic workers. However it only covers 15,000.00 SD. This mentality of employers to get the lowest insurance for the workers and not a comprehensive insurance often would lead to problems in case a more expensive medical treatment would be needed.

Another gap was when a worker had a pre-existing condition as this would not be covered by the 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. Many domestic workers were in the position that they had to function from day to day, meeting the daily economic needs of the family.

Open Forum

The following section will highlight some points raised by participants during the Question and Discussion Session following the presentations.

1. 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. I suppose one of the problems is many of the workers will not work until they are 65. In Singapore they are only allowed to work until 50 years old. Domestic workers are not allowed to go beyond that. This leaves the workers underprivileged.

2. 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. Because of that the worker is always afraid that they will be deported. Sometimes when they have no choice, they sign the contract even if they are aware that it is not good for them. They need to earn.

The government should set up a mechanism where migrants can leave the country without being deported.

3. 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.

This is something that we have been raising. Working in a home is not like working in an office or a factory. We need to recognize the vulnerability of migrant domestic workers and need to set up new mechanisms. These inspectors need to coverer specific themes. We need to find new forms and new ways of regularizing this form of work. Domestic workers are workers and that is something that needs to be checked.

4. 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.

We need to cover the rights of migrants. It is a question that involves the whole of society. Sometimes migratory flow is organized by the state and the state need to protect the rights of the workers. In the Middle East where the migrants outnumber the local residents, they remain poor. The situation is very serious and everybody needs to be involved, the whole of society.

5. 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.

Many domestic workers are in Italy but many are undocumented. Every few years, tax is an issue and visa issues are changing the face of the migrants. Discrimination on payment based on the nationality should be looked into.

It should also be noted that domestic work includes both children and adults. Children have the right to education. Those who are engaged in domestic work should be able to go to school.

6. 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. In Mexico, there is a market for African migrants who are undocumented for instance in the construction, agriculture. Migrants should be protected from trafficking. There is a market for illegal 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.

7. 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.

8. 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.

Moving forward

Recognizing the challenges, it was emphasized the need to strengthen solidarity with other groups. Our engagement with the ILC should give us renewed strength to organize domestic workers. We need to assert more for the rights of domestic workers.

If the adopted text will be passed as a Convention, it will be a really powerful tool. The definition is very general which means it covers even undocumented workers. There is a temptation in this process to add everything. In the Middle East there is a lack of legislation for protection. In some countries there is lack of implementation. The lack of implementation will not be solved by creating a new law.

Reflection: An MDW is brought to our home to take care of our family, children and elderly. However these are workers that have very little protection. What does this say about our society, the values that we impart to our children, to the future generation?