A Civil Society Proposal for Protecting Migrant Domestic Workers' Universal Rights

Prepared for: Regional Preparatory meeting for the High-level Dialogue (HLD) on International Migration

Submitted by Christian Aid and Migrant Forum in Asia
Background

This document presents recommendations to the regional preparatory meeting for the High Level Dialogue on International Migration and Development which are designed to promote and protect migrant domestic workers’ universal rights.

Christian Aid, Migrant Forum in Asia, and the undersigned organisations wish to highlight some of the key factors that undermine migrant domestic workers’ universal rights across the Middle East, using specific examples from Egypt and Lebanon, and propose recommendations based on the standards articulated in the International Labour Organization’s Domestic Workers Convention No. 189, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

Christian Aid and MFA have long been proponents of ILO Convention 189, and believe its ratification will provide much-needed protection for migrant domestic workers. This submission is also firmly situated in the framework of the CSO 7-Point, 5-year Agenda which was endorsed by the Civil Society Steering Committee for the UNHLD.1

Christian Aid and MFA have drawn together these recommendations based on information provided by partner organizations in the region that work with migrant domestic workers.2 In Lebanon, the demand for migrant domestic workers has increased over the past 10 to 15 years, and there are now more than 200,000 migrant domestic workers, the majority of whom are Asian and African women.3 In Egypt, United Nations (2011) International Migration Report states that there are more than 245,000 migrants in Egypt, the majority of who work in irregular work and mainly come from the Sudan and the horn of Africa4.

1 The 7-Point, 5-year Agenda is a result of a number of discussions among civil society groups, including trade unions, that are actively engaged on the issue of migration and development. It proposes seven key outcomes, to be achieved over five years, comprising of: Regulating the Recruitment Industry, Stranded Migrants, Integration of Migration into the Post-2015 Development Agenda, Labour Rights, Rights for Women / Best Interests of Children, Benchmarks for the Implementation of National Legislations, and Redefining International Mechanisms of Migrants’ Rights Protection. The 7-point, 5-year Agenda has been submitted to the UN Secretariat, the members of the UN General Assembly’s Second Committee, other New York-based UN missions, the Population Dynamics and Post 2015 Agenda consultation in Geneva and, most recently, to the Asia-Pacific Regional Preparatory Meeting for the General Assembly High-level Dialogue on International Migration and Development 2013 in Bangkok.
2 Christian Aid and MFA would like to thank EACPE in Egypt, Insan Association and Caritas Lebanon Migrant Center in Lebanon who each contributed information for this paper
4 The 2012 Center for Migration and Refugee Studies Report, Migration Profiles 2012, Angela Smith.
The key vulnerabilities faced by migrant workers that have emerged from our work with them include:

1. **Exclusion from a Comprehensive Legal Framework**

   (i) **The status of migrant domestic workers in labor laws denies many migrant domestic workers access to their rights**

   In Lebanon, migrant domestic workers are specifically excluded from the Lebanese Labor Law, an omission unique to their profession. Migrant domestic workers’ working and living conditions are governed by legal provisions, administrative immigration regulations, societal norms and customary practice, together forming the *sponsorship system*[^5], which places all aspects of a migrant’s life in the hands of their employer.

   In Egypt, all domestic workers are entirely deprived of any legal protection via the Labor Law, including social insurance, leaving them with a weak legal status, and vulnerable to violations of their rights, as further detailed below.

   Signatories to ILO C189 must take steps to ensure equal treatment between domestic workers and workers generally, in accordance to article 10 of the convention.

   (ii) **Working Conditions**

   According to our partner organizations, there are many recorded instances of migrant domestic workers being forced to work around the clock on a live-in basis which deprives them of leisure time. This pattern of work creates a toll on migrant domestic workers’ physical and emotional health. Frequently wages are incompatible with the amount and type of work required of them, particularly where they are required to live-in.

   This situation often stems from the lack of a written employment contract, which is identified as a right for all domestic workers as per per Article 7 of ILO C189[^6].

   Undocumented migrant domestic workers are particularly vulnerable to abuse, and workers often feel unable to report abuse in these cases. Article 25 of the *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families* ensures fair and equal treatment between migrant workers and workers who are nationals of the state of employment.[^7] This convention has been ratified by Egypt, but no other country in the region is a signatory.

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[^5]: The *Sponsorship System* is further elaborated in the section below.
[^6]: Article 7: Each Member shall take measures to ensure that domestic workers are informed of their terms and conditions of employment in an appropriate, verifiable and easily understandable manner and preferably, where possible, through written contracts in accordance with national laws, regulations or collective agreement,...
[^7]: Article 25: 1. Migrant workers shall enjoy treatment not less favorable than that which applies to nationals of the State of employment in respect of remuneration and:
   (a) Other conditions of work, that is to say, overtime, hours of work, weekly rest, holidays with pay, safety, health, termination of the employment relationship and any other conditions of work which, according to national law and practice, are covered by these terms;
   (b) Other terms of employment, that is to say, minimum age of employment, restriction on work and any other matters which, according to national law and practice, are considered a term of employment.
In many cases, migrant domestic workers do not have the right to any health, social or life insurance. They cannot accrue pension entitlements. In many cases, they can be let go from their employment without being given prior notice.

2. Freedom of Movement

Migrant domestic workers freedom of movement is curtailed by employers’ withholding of their passports and other identity documents. This practice is reported to be widespread in Lebanon and Egypt. It is entirely prohibited under Article 21 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. In Lebanon, the unified contract states that conditions for the weekly rest period must be agreed upon with the employer; in practice this has led to many situations where domestic workers must gain the permission of their employer prior to leaving the house, limiting their ability to leave their place of employment during rest periods.

3. Right to Resign

In Lebanon, migrant domestic workers’ right to resign is severely limited since it requires the employer’s explicit permission unless the situation qualifies as extremely severe, as per the Standard Unified Contract, i.e. if the worker has not been paid for three consecutive months or has been medically certified as victim of sexual or physical abuse. Without this explicit consent, migrant domestic workers are at risk of detention for breaching the conditions of their work and residency permit if they decide to resign unilaterally.

4. Recruitment agencies

The main method in which migrant workers come to work in Lebanon is through recruitment agencies. The lack of monitoring of these agencies on the ground has resulted in a number of rights violations, such as recruiting minors and assisting in the creation of false passports. Even when acting legally, these agencies charge exorbitant fees that are extremely difficult for the workers to pay back.

Through the sponsorship system in Lebanon, migrant domestic workers are dependent on their employers not only for their work permit, and thus legal status in the country, but also for their accommodation, food and medical care. Such complete dependency leaves migrant domestic workers vulnerable to exploitation and abuse, including physical, sexual and emotional abuse.

The sponsorship system provides little to no accountability on the part of Lebanese employers to treat workers with dignity and respect, to pay them on time, or to give them time off from work. Most migrant domestic workers do not take one day off per week and that on average they work 16 hours per day.

Follow-up Action:

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In accordance with the International Labour Organization’s Domestic Workers Convention, 2011 (No. 189), and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, the following actions are required for the protection of the rights of all migrant and local domestic workers in the region:

1. **All migrant and local domestic workers should be completely incorporated** within the local labour laws throughout the region so as to protect their fundamental and universal rights, including the right to fair wages, the right to a humane treatment, the right to resign, and so on.

2. There is an urgent need to sign and implement transparent and accessible bilateral agreements that build on international standards for the protection of the rights of all migrant workers during recruitment, employment and repatriation.

3. **The justice system and the police** need to strictly enforce local penal codes against any individual or entity in cases of sexual, physical and other abuse by employers against both migrant and local domestic workers. These forms of abuse are prohibited by Articles 10 and 11 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

4. Efforts need to be given to helping domestic workers and migrant domestic workers establish unions and syndicates that would help them organize, such as the newly founded Union of Monthly Wages Workers, in Egypt, which is designed for the protection of the rights of domestic workers and other disadvantaged workers. Having a representative union is a right for all workers, including domestic workers.

5. Eliminate immigration policies limiting workers’ ability to freely change or choose their employer. This is a particular concern in Lebanon, and is a violation to Article 39 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

We also call for the following specific country actions:

6. Pushing for passage of a law on domestic workers, both migrant and local, in Egypt in the upcoming Parliament. The law drafted in September 2012 was designed for the specific protection and respect of the rights of domestic workers in Egypt.

7. Pushing for amendment of the Lebanese Labour Law to include both local and migrant domestic workers under its provisions.

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*Article 10:* No migrant worker or member of his or her family shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. *Article 11:* (1) No migrant worker or member of his or her family shall be held in slavery or servitude. (2) No migrant worker or member of his or her family shall be required to perform forced or compulsory labour.

*As per Article 3 of ILO C189:* (a) freedom of association and the effective recognition of the right to collective bargaining.

*Article 39 (1)* Migrant workers and members of their families shall have the right to liberty of movement in the territory of the State of employment and freedom to choose their residence there.
Signatory organizations:

- Christian Aid, UK
- Migrant Forum in Asia, the Philippines
- The Egyptian Association for Community Participation Enhancement, Egypt
- Caritas Lebanon Migrant Center, Lebanon
- Insan Association, Lebanon