

A Landmark Victory for Domestic Workers: New Convention Establishes First Global Labor Standards for Millions of Women and Girls

By Nisha Varia and Jo Becker

If someone had told me 45 years ago that we would be here today, I would not have believed it. We do not have to be slaves anymore.

—Myrtle Witbooi, chair of the International Domestic Workers Network and former domestic worker from South Africa, Geneva, June 10, 2011

On June 16, 2011, with the world's attention consumed by street protests in the Middle East and a stubbornly bleak global economy, a quiet revolution took place. Overcoming initial skepticism and resistance, members of the International Labour Organization (ILO)—governments, trade unions, and employers' associations—voted overwhelmingly in favor of a new groundbreaking treaty that, for the first time, established global labor standards for the estimated 50 to 100 million domestic workers worldwide who clean, cook, and care for children and the elderly in private households.

ILO Convention 189 Concerning Decent Work for Domestic Workers did not topple any dictators, but it does radically change how domestic workers—the vast majority of whom are women and girls—and their work inside the home are valued, recognized, and protected. Its desperately needed and long overdue protections shake deeply entrenched gender discrimination in social and legal norms, and, in some countries, the lingering legacies of slavery.

Many countries exclude domestic workers from labor laws partially or completely, denying them basic labor protections that most other categories of workers can take for granted, such as a minimum wage or limits to hours of work. Such exclusion—together with discrimination and a profound devaluation of work associated with traditional, unpaid female roles has—led to a wide and disturbing range of abuses against domestic workers around the world, many of whom are migrants and an estimated 30 percent of whom are children under the age of 18.

Over the past 10 years, Human Rights Watch’s research in countries as diverse as Indonesia, Saudi Arabia, the United States, Morocco, Guinea, and El Salvador has documented pervasive abuses and labor exploitation, including excessively long working hours without rest; unpaid wages for months or years; forced confinement in the workplace; food deprivation; verbal, physical, and sexual abuse; and forced labor including debt bondage and trafficking. Domestic workers who suffer such abuses typically have little access to redress.

Governments overwhelmingly voted in favor of the ILO convention, which guarantees domestic workers labor protections equivalent to those of other workers, including for working hours, minimum wage coverage, overtime compensation, daily and weekly rest periods, social security, and maternity leave. The new standards oblige governments to address the minimum age for children in domestic work and their right to attend school, protect domestic workers from violence and abuse, regulate recruitment agencies and fees, and set out measures for effective monitoring and enforcement.

While adoption of the convention was a major victory worthy of celebration, the toughest work lies ahead: ensuring that the convention is ratified, incorporated into domestic laws worldwide, and enforced. This essay describes the situation that domestic workers currently face, analyzes how a constellation of forces came together in 2011 to get the ILO convention adopted, and outlines steps that need to be taken now to ensure that this positive development leads to tangible improvements in the lives and working conditions of domestic workers.

Abuses against Domestic Workers

I woke up at 5 a.m., cleaned the house and made breakfast for the children and worked all day. I went to sleep at 3 a.m. I never got a chance to rest.... The wife of the employer shouted and beat me every day.... The employer had my passport. The door was locked. I was not allowed to go out or even talk to the neighbors. I never received my salary.

—Chain Channi, Cambodian domestic worker, Kuala Lumpur, Malaysia,
April 12, 2011

Domestic workers play a critical economic role globally, helping households manage responsibilities of child care, cooking, and cleaning. They also free up their employers to participate in the workforce themselves and provide care for the industrialized world's increasingly aging population. Migrant domestic workers send home billions of dollars in remittances to developing countries each year, but despite their economic contributions, sending governments have largely ignored protection concerns.

Domestic workers, who often make extraordinary personal sacrifices to support their families, have routinely been denied basic protections guaranteed others workers and are among the most exploited workers in the world. Gaps in legal protections, isolation in private homes, and social norms that have sanctioned exploitation of a "servant" class have given rise to abuses ranging from endemic labor exploitation in which workers toil around the clock for little or no pay, to trafficking into domestic servitude and slavery.

In a review of 72 countries' labor laws, the ILO found that 40 percent did not guarantee domestic workers a weekly rest day, and half did not limit hours of work. Many national child labor laws currently exclude domestic workers, meaning employers can employ young children and make them labor for long hours, often at the cost of their education and health. A Human Rights Watch study in Indonesia found that only 1 in 45 child domestic workers interviewed was attending school.

Many domestic workers are international migrants who confront additional risks posed by language barriers, precarious immigration status, excessive recruitment fees, and employers' confiscation of passports. Human Rights Watch investigations across Asia and the Middle East have documented the failure of many governments to monitor recruitment agencies that impose heavy debt burdens or to ensure that migrant domestic workers have access to courts, information about their rights, and support services when they face abuse.

Trade unions have begun organizing domestic workers in recent decades in places such as South Africa, Hong Kong, and Brazil, but for the most part the organized labor movement has been slow to take up domestic workers' concerns and the particular risks faced by children and migrants. The process of negotiating global labor standards on domestic work brought together a diverse alliance of domestic worker organizations, NGOs, and trade unions working to reverse this dynamic.

Forging Global Labor Standards

The lack of protection for domestic workers represents a significant gap in the coverage of international labor standards.... Domestic workers around the world are looking to the ILC [International Labour Conference] to adopt a convention that would help to overcome past injustices and give domestic workers a better future.

—Maria Luisa Escorel, minister counselor, permanent mission of Brazil, Geneva, June 2011

The ILO convention adopted in June 2011 was unthinkable just a few years ago. It represents the culmination of years of efforts by domestic workers, advocates, and officials to shine a spotlight on a long-ignored but significant sector of the workforce. These efforts properly focused on the ILO, with its unique tripartite structure in which workers' groups, employers' groups, and governments (183 countries are members) negotiate international standards, with all three component groups having a vote.

The push for new global labor standards began in earnest in March 2008 when domestic worker advocacy groups, migrants' groups, and global trade unions successfully pressed to get domestic work formally on the ILO agenda. This was followed by a series of intensive consultations with ILO members and opportunities for them to comment on draft instruments between 2008 and 2010, and two rounds of on-the-floor negotiations at the International Labour Conference in Geneva in June 2010 and June 2011.

Many governments initially expressed hesitation or direct opposition to a legally binding convention on domestic work, citing the impracticality of monitoring work in private households and their reluctance to add to a growing body of international labor standards, many of which had poor rates of ratification. However, the ILO survey of laws and practices around the world, opening statements at the negotiations by the workers' group and key governments, and lobbying by domestic workers' organizations and NGOs made a strong case that the pervasive exploitation and abuse in this sector could no longer be neglected.

The workers' position was formally represented by the International Trade Union Confederation (ITUC), the global umbrella for national trade union federations, and supported by the ILO unit assisting workers (ACTRAV). The newly formed International Domestic Workers Network (IDWN), supported by the main global trade union for food workers (IUF), ensured domestic workers' voices were represented in the negotiations. They brought domestic workers from around the world to participate in and observe the

negotiations, and several of them were selected for their country's official worker delegations, including those from Mexico, Brazil, South Africa, Jamaica, the US, and the United Kingdom. Anti-Slavery International facilitated a delegation of child domestic workers to share their experiences and recommendations to the negotiating committee.

The employers' position was formally represented by the International Organization of Employers (IOE), which had little previous experience with the issue.

From the outset of the negotiations, the employers pushed strongly for a non-binding recommendation in lieu of a legally binding convention, and were particularly concerned by additional regulation of private employment agencies that they feared was unrealistic and impractical. However, a change in leadership between the second and third years of negotiations, engagement with NGOs to learn more about abusive practices by recruitment agencies in some parts of the world, and a clear signal of overwhelming support for a binding convention led the employers to back down from their opposition. The employers' representative spoke strongly on behalf of the new standards during the final vote, and more than half of the employers cast their votes in favor of adopting the convention.

Some of the most contentious debates during the negotiations included regulation of employment agencies, elements of written contracts for domestic workers, provisions on social security and a healthy working environment, and how to account for working hours when domestic workers are not actively working but must be available to be "on-call." Surprisingly, provisions on monitoring and inspections of private homes garnered little controversy during the final debate.

From the outset of negotiations, key governments provided decisive support, advocating strongly for binding standards that would extend equal labor protections to domestic workers. Delegates from Australia, Brazil, South Africa (speaking on behalf of the Africa group), the US, Argentina, and Uruguay spoke up repeatedly to introduce and defend strong provisions and to point to effective country-level examples of legislation and implementation.

Although European Union countries, with the exception of the UK and the Czech Republic, cast their final votes in favor of the convention, the EU played a disappointing role during the negotiations, often attempting to weaken suggested provisions. In part, this emanated from the EU's desire to avoid highly politicized debates on migrants' rights in their home countries and, in general, to work around specific provisions in EU directives and reflect

existing national legislation. ILO members made a number of concessions in order to accommodate EU concerns, hoping to win their support and avoid the credibility problems faced by the United Nations Migrant Worker Convention, which has been primarily ratified by migrant-sending countries and ignored by migrant-receiving countries.

As negotiations progressed, support for the convention grew. Some states with initially hostile attitudes changed their positions as they heard evidence of the abuses against domestic workers and concrete examples of how legislation in a diverse array of countries could improve domestic workers' rights. Members of the Gulf Cooperation Council (Bahrain, Kuwait, Oman, Qatar, the United Arab Emirates (UAE), and Saudi Arabia), along with Bangladesh, Indonesia, and India, reversed early opposition to a legally binding convention and expressed support in the final vote.

On June 16, 2011, the newly negotiated standards won overwhelming support, with 396 delegates (representing governments, workers, and employers' associations) voting for the convention, 16 voting against, and 63 abstaining. Swaziland was the only government to vote against the convention.

Translating Standards into Change on the Ground

While we celebrate this historic moment, we also know that there are many challenges to face in our struggle to ensure that these rights, now enshrined in Convention form, are upheld, protected, and defended.

—Migrant Forum in Asia, statement, Manila, June 16, 2011

Adopting a new convention is only the first step in a long, difficult campaign for widespread ratification and implementation. However, the process of negotiating the convention has already played a critical role in raising awareness about a labor sector once largely hidden from public view. This has already begun to shift attitudes away from perceiving household work as informal labor, to recognizing it as work deserving of comprehensive protections. The negotiations also served as a focal point to mobilize a diverse array of actors committed to enshrining these standards in national laws and practices on the ground.

Two ratifications are required for the convention to come into force, and several countries have already expressed their intention to ratify, including Belgium, Brazil, Namibia,

Norway, Peru, the Philippines, and Uruguay. National consultations on the convention are taking place in others. Whether governments are close to ratifying the convention or not, they will feel pressure to respect the standards it sets forth. For example, several countries are currently drafting or revising legislation on domestic work, such as Kuwait, the UAE, Lebanon, Indonesia, and the Philippines, and they will consult the standards as they finalize their laws. Singapore and Malaysia, two of the nine countries that did not vote in the convention's favor, will find it in their interest to introduce reforms anyway to remain an attractive destination for migrant domestic workers who can increasingly opt for better working conditions and pay elsewhere.

Discrimination and exploitative practices are deeply entrenched and recognition and respect for domestic workers' rights will not improve overnight. To make the new standards count, domestic workers' groups, migrants' groups, trade unions, the ILO, NGOs, and other advocates must strengthen efforts at the national level to replicate their success in Geneva at the international level. They must also raise public awareness among key constituencies such as national labor officials, employers, trade unions, and media. They will then need to mobilize and build momentum around national consultations, ILO ratification, and related legislative reforms.

Because the strength and diversity of the domestic workers' movement varies greatly by country and region, a third priority is to provide international support to national and regional groups as needed. This may entail working to ensure freedom of association for domestic workers, providing financial and organizational support to fledgling groups, or building alliances among domestic workers, labor, migrants, women's rights, and children's rights organizations.

Finally, dissemination of best practices and lessons learned, particularly on experiences with implementing domestic worker protections and instituting monitoring mechanisms, will be crucial for ensuring that strong global standards turn into concrete improvements in local practices.

As Myrtle Witbooi, the IDWN chair quoted earlier, said when celebrating adoption of the ILO convention:

The fight is not over. We need to go back home. We need to campaign. We need to be sure that what we vote for is implemented. We must not rest

until our governments ratify the convention. We cannot be free until we free all the domestic workers.