



OFFICE OF UNITED NATIONS
AND OTHER INTERNATIONAL ORGANIZATIONS

EXTREMELY URGENT
MEMORANDUM FOR ALL OFFICES AND POSTS

Eduardo Martin R. Meñez

From : **EDUARDO MARTIN R. MEÑEZ**
Acting Assistant Secretary

Subject : **Ratification of ILO Convention 189 (Domestic Workers)**

Date : 13 October 2011

The Department of Labor and Employment (DOLE) conducted a forum-consultation on 11 October 2011 to discuss and promote the ratification of International Labour Organization (ILO) Convention 189 - Decent Work for Domestic Workers, 2011.

The forum was attended by representatives from UNIO, the Tripartite Industrial Peace Council or TIPC¹, DSWD, the Philippine Commission on Women, and other government agencies notably the social security agencies SSS, PAG-IBIG, PHILHEALTH, and the Employees Compensation Commission.

- The programme included an overview of the Convention (Attachment 1), a detailed Action Plan on the Ratification (Attachment 2), and an outlined assessment of Philippine Policy and Practice on domestic work vis-à-vis the Convention (Attachment 3), including gaps in compliance and monitoring. Copies of the presentations are attached to this memorandum together with those of Convention 189 (Attachment 4) and Recommendation 201 – Concerning Decent Work for Domestic Workers (Attachment 5). (*Soft copies may be obtained from UNIO through pie_razon@yahoo.com or minglana@gmail.com.*)
- Convention 189 and Recommendation 201 are the first international instruments on domestic workers. Both were adopted at the 100th Session of the International Labour Conference in June 2011. The Convention binds ratifying States to set minimum standards for domestic workers and subjects it to periodic reporting to the ILO on implementation. Recommendation 201 is a non-binding set of guidelines aimed at strengthening national laws, policies and practice and should be read in conjunction with the Convention.

¹The National TIPC serves as the main consultative and advisory mechanism lodged with the DOLE-Bureau of Labor Relations. It functions primarily as a forum for tripartite advisement and consultation among organized labor, employer and government in the formulation and implementation of labor and employment policies. It is responsible for processing major issuances affecting labor, employment and other related concerns, as well as a clearinghouse for the recommendation and ratification or denunciation of International Labour Organization (ILO) Conventions.

- In her message, DOLE Secretary Rosalinda Dimapilis-Baldoz highlighted the Philippine Government's continuous and consistent leadership in protecting domestic workers at both national and international levels. By chairing the committee at the 100th session of the ILO in which Convention 189 was adopted by an overwhelming number of votes, the Philippines highlighted its role as champion for the protection of domestic work in the country and the world. **The Secretary called for the speedy ratification of Convention 189** and the passage of the Kasambahay Bill, which she said has been considered by the President as urgent and has gone through several Congressional hearings.
- The Secretary welcomed further discussions on the review of the Kasambahay Bill, the expansion of the Labor Code, and consultations on RA 10022 (Migrant Workers and Overseas Filipinos Act) with the aim of enhancing protection and ensuring employability of domestic workers and of meeting the requirements of ILO Convention 189. The Secretary also mentioned that DOLE is already putting in place occupational safety and health standards for domestic workers and that there are programmes and regulations that can be equated to compliance to the Convention.
- UNIO informed the body of DFA's involvement in the consultations and assistance in the eventual ratification process, stressing that the latter is guided by EO 459.
- The meeting identified the following agencies for consultation and concurrence: DFA, DOLE and its specialized agencies (OWWA, POEA, Bureau of Labor Statistics, International Labor Affairs Bureau, etc.), TIPC, DOJ, DILG, DSWD, PCW, PNP, National Anti-Poverty Commission, DOH, NEDA, Office of the Solicitor-General, and Commission on Filipinos Overseas. The body noted that this list is still fluid.
- The forum is the first of a series of consultations among stakeholders and is one of several advocacy activities geared towards ratification of the Convention and passage of the Kasambahay Bill. The attached Action Plan outlines ongoing activities related to these goals. **Attention is invited to entry 2.e - Generate international support particularly from Labor receiving countries** as the timeline indicates ongoing multilateral and bilateral initiatives related to the Convention. **Endorsement for ratification to the DFA is set for November 2011** in the Action Plan.
- An assessment of Philippine policy and practice on domestic work in relation to Convention 189 was presented by DOLE. Provisions in the Convention for which gaps in Philippine compliance have been identified were enumerated: Definition of domestic work (Art. 1); Scope of domestic work (Art. 2); Human rights, fundamental rights at work (Art 3), specifically on collective bargaining; Terms and conditions in the written contract (Art. 7); Live-in/live-out arrangement, identity and travel documents (Art. 9); Working time (Art. 10); Occupational safety and health (Art. 13); and Complaint mechanisms, labor inspection/enforcement (Art. 17).

Comments:

- UNIO notes the support of DOLE, TIPC and the government and non-government participants for the ratification of the Convention. Sec. Baldoz pointed out the advantage of having ample representation at the tripartite council of the International Labour Conference and in resolving labor issues, in general.
- UNIO recognizes the urgency to ratify Convention 189 but it is also concerned that the November 2011 target of endorsing ratification to DFA may indeed fast-track ratification but most likely at the expense of a thorough and substantial consultation process.

Actions to be Taken:

The next forum is eyed at the end of October and in this regard, UNIO would highly appreciate concerned Offices and Posts' action on the recommendations as well as receipt of the requested inputs/information by **21 October 2011** (preferably to either of the email addresses provided above) on the following:

1. Progress in the consultation and advocacy would ultimately depend on the quality of participation of concerned agencies which need to be properly identified. Target dates are considered irrelevant and are aids to action. **It would be appreciated if additional agencies that need to be included in the consultation could be suggested.**
2. **UNIO respectfully seeks comments and recommendations from concerned Offices and Posts regarding ratification of the Convention.**
3. The matrix on the assessment of Philippine policy and practice on domestic work vis-à-vis the Convention is considered to serve as the core for the discussion on ratification. **DFA was specifically requested to provide data on (1) enforcement on site (i.e., receiving countries) of written contracts and on (2) relevant bilateral agreements and the enforcement of their provisions such as on repatriation, working conditions, travel documents, etc. Posts and the relevant Offices are requested to provide said information.**
4. UNIO recommends the active **participation of OUMWA, OUSOC and OLA** in the consultations.

Enclosures: as stated.



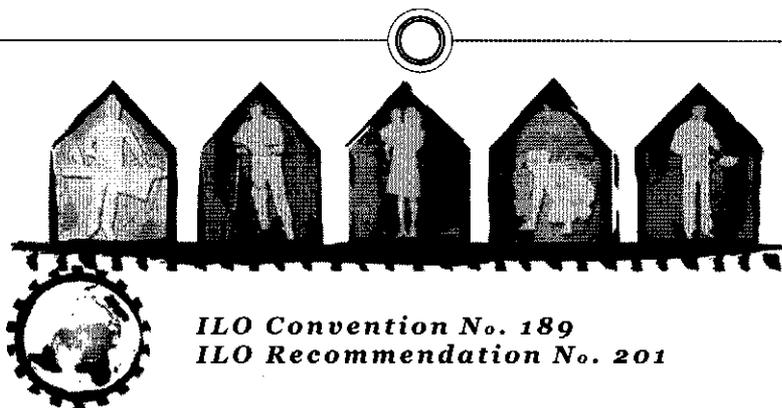
**Marangal Na Hanapbuhay Para Sa Kasambahay:
A Forum On ILO Convention 189**
Ichikawa Hall, Occupational Safety and Health Center (OSHC), Quezon City
11 October 2011

Programme

8:30	Registration	
9:00	Invocation	Ms. Lilibeth Masamloc <i>President</i> Samahan at Ugnayan ng mga Mangagawang Pantahanan sa Pilipinas
	National Anthem	
9:15	Message	HON. ROSALINDA DIMAPILIS-BALDOZ <i>Secretary</i> Department of Labor and Employment
9:30	Decent Work for Domestic Workers: ILO Convention 189 and Recommendation 201 and Presentation of the DOLE Action Plan on the Ratification of C189	Atty. Hans Leo J. Caedac <i>Undersecretary</i> Department of Labor and Employment
10:30	Break	
10:45	Policy and Program Responses for Domestic Workers in the Philippines	Ms. Katherine B. Brimon <i>Deputy Executive Director</i> Institute for Labor Studies
11:30	Open Forum	
12:00	Lunch	
1:00	Sectoral Responses on ILO Convention 189 and Recommendation 201	SUMAPI Visayan Forum Migrant Forum in Asia Trade Union Congress of the Philippines Federation of Free Workers Alliance of Progressive Labor Employers Confederation of the Philippines Senate of the Philippines
2:30		HON. EMIL L. ONG <i>Chair, Committee on Labor & Employment</i> House of Representatives
2:45	Synthesis	Atty. Johnson G. Canete <i>Deputy Executive Director</i> National Conciliation and Mediation Board
	Closing	Atty. Lourdes M. Trasmonte <i>Undersecretary</i> Department of Labor and Employment

Atty. Johnson G. Canete
Emcee

DECENT WORK FOR DOMESTIC WORKERS



Overview

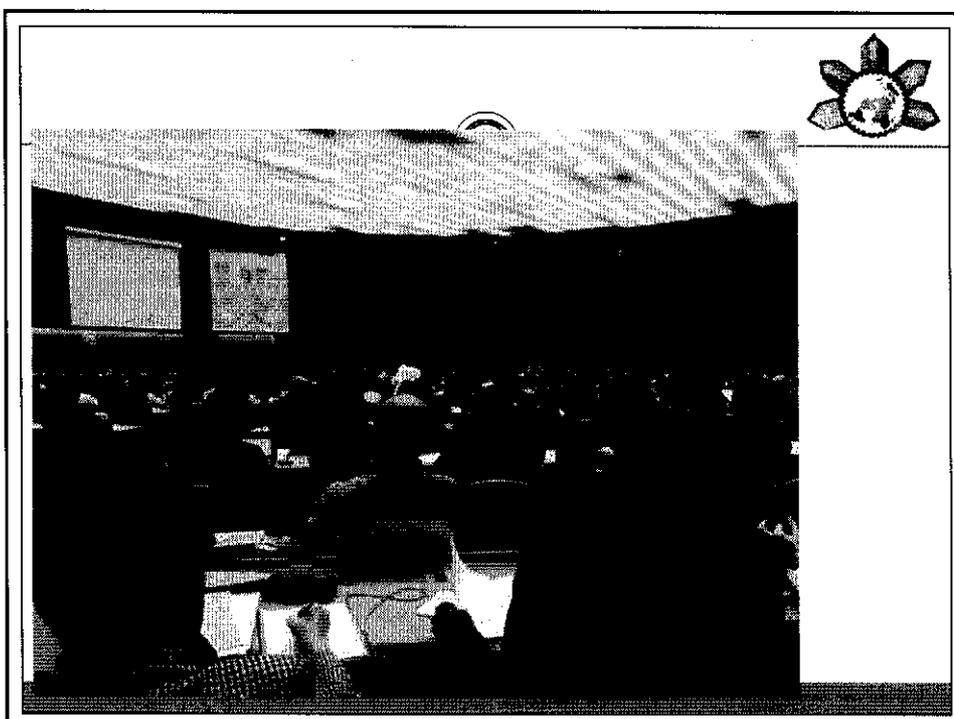


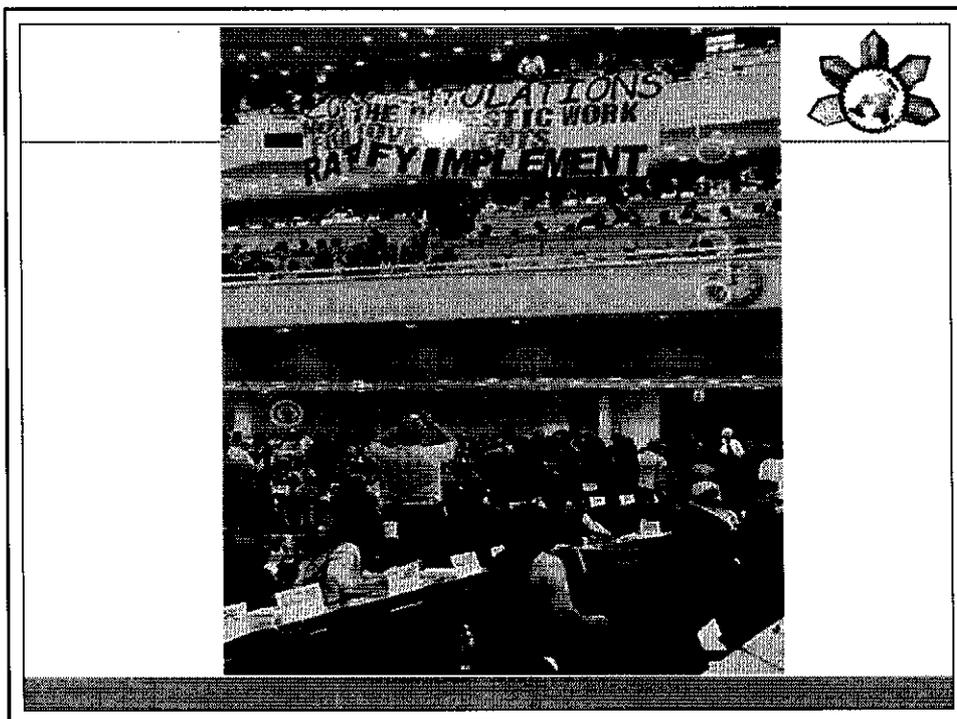
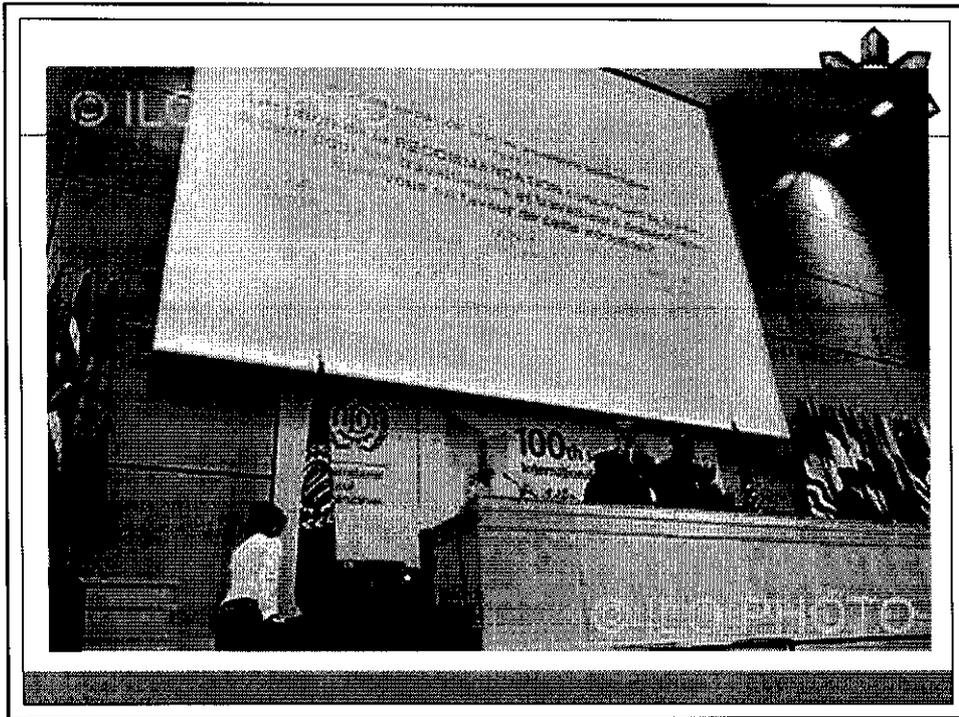
- The instruments: rationale and objectives
- Definitions and scope
- A rights-based approach
- Freedom of association and collective bargaining,
- Child labour
- Protection against abuse, harassment and violence
- Information on terms and conditions, written contracts
- Working time and Remuneration
- Occupational safety and health
- Social security
- Protection for particular groups
- Private employment agencies
- Access to court, compliance and enforcement

The instruments



- **100th Session of the International Labour Conference (June 2011):**
 - **Domestic Workers Convention, 2011 (No. 189)**
 - **Domestic Workers Recommendation, 2011 (No. 201)**
- **First international instruments on domestic workers**
- **Strong tripartite support for the promotion of decent work for domestic workers**





Rationale



- Domestic workers: a significant portion of the labour force (3.6 % of global wage employment)
- Most of them women, many under 18
- Many migrant workers
- Important contributions to society and the economy
- Exclusion from labour and social protection
- Serious decent work deficits
- Vulnerable to discrimination and other human rights abuses

Objectives



- Recognizing that domestic workers have a right to decent work, like other workers
- Enabling them to enjoy their rights fully
- Advancing gender equality
- Complementing existing ILO standards

Two instruments : different roles



- **The Convention**
 - Sets minimum standards
 - Binding on ratifying States
 - Periodic reporting to ILO on implementation
- **The Recommendation**
 - Non-binding
 - Guidance for strengthening national laws, polices and practice
 - To be read in conjunction with Convention

Definitions



- **What does “domestic work” mean?**
 - *“Work performed in an for a household or households”*
- **Who is a “domestic worker”?**
 - *“any persons engaged in domestic work within an employment relationship”*
- **Not a domestic worker:**
 - *“a person who performs domestic work only occasionally or sporadically and not on an occupational basis”*

C. 189, Art. 1

Scope



- *All domestic workers*
- Under strict conditions, possible exclusions:
 1. Workers with higher or equivalent protection
 2. Workers in respect to which application of Convention's provisions poses serious problems

C.189, Art. 2

Decent work for domestic Workers: a rights-based approach



Two overarching and inter-related obligations:

1. **Effective promotion and protection of the human rights of all domestic workers**
2. **Measures to ensure fair terms of employment and decent working and living conditions**

C.189, Art. 3 and 6

Fundamental Principles and Rights at Work



- **Obligation to respect, promote and realize fundamental principles and rights at work regarding:**

- (a) freedom of association and right to collective bargaining
- (b) elimination of forced labour
- (c) abolition of child labour
- (d) elimination of discrimination

Freedom of association and the right to collective bargaining



- **Key for improving the working conditions of domestic workers**

- Right of domestic workers and employers to establish and join organizations of own choosing
- Social dialogue: shaping implementation of the Convention
- Collective agreements: one of the means of implementation

*C.189, Art. 3 and 18
R.201, Para. 2*

Abolition of child labour



- **Set and enforce a minimum age for domestic work**
 - Consistent with Conventions Nos. 138 and 182
 - Not lower than for other workers
- **Identify, prohibit and eliminate hazardous domestic work by children** (R.201)
 - As envisaged in Convention No. 182, and Recommendations Nos. 190 and 201

*C.189, Art.4
R.201, Para. 5*

Protection against abuse, harassment and violence



- **The workplace = a private home(s)= increased risks and vulnerability**
- **Put in place effective protection against *all* forms of abuse, harassment and violence, including:**
 - Physical
 - Physiological or moral
 - Sexual
 - Discriminatory (based on sex, gender, ethnicity, religion etc)

*C.189, Art. 5
R.201, Para. 7*

Information on terms and conditions



- **Knowing one's rights = better protection**
- **Formalizing the employment relationship: in the interest of workers and employers**
- **Right to be informed of terms and conditions of employment**
 - In an appropriate, easily understandable, and verifiable manner
 - Preferably written contracts

*C.189, Art. 7
R.201, Para. 6*

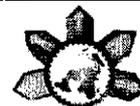
Working time I



- **Key aspect of decent work for domestic workers**
- **Towards ensuring equal treatment**
 - Normal hours of work, overtime compensation, daily and weekly rest, paid annual leave
 - Taking into account the specific characteristics of domestic work

*C.189, Art. 10
R.189, Para. 8 to 13*

Working time II



- **Weekly rest:**
 - Minimum of 24 consecutive hours
- **Stand- by**
 - Workers not free to dispose of time as they please & remain at disposal to respond to calls
 - Regarded as hours of work to the extent determined by national laws, regulations and collective agreements

*C.189, Art. 10
R.189, Para. 8 to 13*

Remuneration I



- **Domestic work is one of the lowest paid occupations**
- **Undervaluation of domestic work**
- **Extending minimum wage coverage to domestic workers, where it exists**
- **Address pay discrimination based on sex, consistent with C. 100**

C.189, Art. 11

Remuneration II



- **Means and modalities of payment**

- Directly to the worker
- At regular intervals (at least once a month)
- In cash
- Bank transfer, cheque, money order or other means when provided for under the law
- No deductions from remuneration for fees charged by private employment agencies

C.189, Art. 12, 15(1)(e)
R.201, Para. 15

Remuneration III



- **Payments in kind only under strict conditions:**

- If provided for under the law
- *limited* portion
- Fair and reasonable monetary value
- For personal use and benefit
 - ✦ No uniforms, tools or protective equipment
- Not less favourable than for other workers

C.189, Art. 12
R.201, Para. 14

Occupational Safety and Health



- **Domestic workers have the right to a safe and healthy working environment**
 - Take effective measures to ensure occupational safety and health
 - Factor-in the specific characteristics of domestic work
- **Measures may be taken progressively, in consultation with employers' and workers' organizations**

C.189, Art. 13
R.201, Para. 4, 19

Social security



- **Ensuring social security coverage for domestic workers, including maternity benefits**
 - Conditions not less favourable than for workers in general
 - Factor-in the specific characteristics of domestic work
- **Measures may be taken progressively, in consultation with employers' and workers' organizations**

C.189, Art. 14
R.201, Para. 20, 26(2)

Child domestic workers



- Above legal minimum age and under 18 years
- Domestic work *not* to:
 - ✦ Deprive of compulsory education
 - ✦ Interfere with further education and vocational training opportunities
- Special needs for protection (R.201)
 - ✦ Restricting hours and tasks
 - ✦ Monitoring

C.189, Art. 4(2)
R.201, Para. 5(2)

Migrant domestic workers



- Instruments cover all domestic workers, including migrants
 - Moreover, specific provisions for protection of migrant domestic workers
- Written job offer or contract before traveling to country of employment
 - Exception: workers enjoying freedom of movement for employment
- Conditions for repatriation to be specified
- Emphasis on cooperation between ILO Members

C.189, Art.8
R.201, Para. 20(2), 21, 22, 23, 26

Live-in domestic workers



- **Reside in the household for which they work**
 - Specific risks and issues
 - Migrant workers particularly concerned
- **Key principles:**
 - Decent living conditions respecting worker's privacy
 - Freedom to reach agreement on live-in requirement
 - No obligation to remain in household during daily and weekly rest, annual leave
 - Right to keep personal documents
- **Access to third-party assistance and effective protection in case of dispute or abuse (R.201)**

*C.189, Art. 6 and 9
R.201, Para. 3, 17, 18*

Private employment agencies



- **Important role in the domestic work sector**
 - As intermediaries: matching demand and supply
 - As employers: making domestic workers available to households
- **Protection from abusive practices:**
 - Determining conditions governing operations
 - Specifying respective responsibilities of agencies and households
 - Complaints machinery
 - Penalties, including prohibition of infringing agencies
 - Collaboration between ILO Members
- **Social dialogue, promotion of good practices (R.201)**

*C.189, Art. 15
R.201, Para. 23, 26(2)*

Dispute settlement mechanisms



- **Ensuring effective access for domestic workers to courts, tribunals or other dispute settlement mechanisms**
- **By themselves or through a representative**
- **Under conditions not less favourable than those available to other workers**

*C.189, Art. 16
R.201, Para. 7, 21*

Ensuring compliance



- **Compliance with laws and regulation protecting domestic workers:**
 - Crucial to make the Convention effective
- **A combination of means**
 - Effective and accessible complaints mechanisms
 - Develop and implement measures for labour inspection, enforcement and penalties
- **Balancing the right to equal protection with the privacy of the home**

*C.189, Art. 17
R.201, Para. 7, 21, 24*

Means of implementation



- **A range of means:**
 - Laws and regulations
 - Collective agreements
 - Additional measures
 - ✦ Arbitration awards, bilateral & multi-lateral agreements, policies and programmes, model contracts, codes of conduct provision of information, hotlines, outreach etc.
- **Depending on the circumstances:**
 - Extending or adapting existing measures to cover domestic workers
 - Development of specific measures
- **In consultation with social partners**

INDICATIVE OVERVIEW BY SUBJECT MATTER		C.189 Article	R.201 Paragraph
Definitions		1	
Scope		2	
Promotion and protection of human rights		3	
Freedom of association, right collective bargaining		3	2
Non-Discrimination		3, 11	3
Forced labour		3	26(2)
Child labour		3, 4	5
Protection against abuse, harassment and violence		5	7
Fair terms of employment, decent working and living conditions		6	17
Privacy		6, 17(3)	3(a), 17(a)
Information on terms and conditions of employment, written contracts		7	6
Working time		10	8, 9, 10, 11, 12, 13
Remuneration		11, 12	14, 15, 16, 20(3)
Occupational safety and health		13	4, 19
Social security		14	20, 26(2)
Protection for particular groups	Child domestic workers	4	5
	Live-in workers	6, 9	17, 18
	Migrant workers	8, 15	20(2), 21, 22, 23, 26(1)
Private employment agencies		15	23, 26(2)
Compliance and enforcement		16, 17	7, 19(D), 21, 24
International cooperation and collaboration		8(3), 15(c) and (d)	20(2), 26
Means of implementation		18	
Consultations with employers' and workers' organizations		20(1), 13(3), 14(2), 15(2), 18	6(3), 8(2), 19, 22, 25
Statistical data			25(2), 26(2)
Professional development			25(1)
Work-life balance, work and family responsibilities			25(1)
Diplomatic personnel			26(2)

More information



- The texts of Convention No. 189 and recommendation No. 201
- Policy briefs, studies and research on domestic work
- ILO activities to promote decent work for domestic workers

<http://www.ilo.org/global/topics/domestic-workers/lang--en/index.htm>



International
Labour
Office
Geneva

Convention No. 189



Convention No. 189

Decent work for domestic workers

Domestic work is work. Domestic workers are, like other workers, entitled to decent work.

On 16 June 2011, the International Labour Conference of the International Labour Organization adopted the Convention concerning decent work for domestic workers, which is also referred to as the Domestic Workers Convention, 2011 (No. 189).

What is Convention No. 189 ?

What is a Convention of the ILO?

A treaty adopted by the International Labour Conference, which is made up of government, worker and employer delegates from the 183 member States of the ILO.

What is Convention No. 189 about?

Convention No. 189 offers specific protection to domestic workers. It lays down basic rights and principles, and requires States to take a series of measures with a view to making decent work a reality for domestic workers.

What does it mean to ratify a Convention?

When a country ratifies a Convention, its government formally makes a commitment to implement all the obligations provided in the Convention, and to report periodically to the ILO on the measures taken in this regard.

Recommendation No. 201 – how is it related to the Convention?

Domestic Workers Recommendation No. 201, also adopted by the International Labour Conference of 2011, supplements Convention No. 189. Unlike the Convention, Recommendation No. 201 is not open for ratification. The Recommendation provides practical guidance concerning possible legal and other measures to implement the rights and principles stated in the Convention.

How is the Convention to be implemented?

The Convention may be implemented by extending or adapting existing laws and regulations or other measures, or by developing new and specific measures for domestic workers. Some of the measures required under the Convention may be taken progressively.

Who is covered by Convention No. 189 ?

What is domestic work?

Convention No. 189 defines domestic work as "work performed in or for a household or households".

This work may include tasks such as cleaning the house, cooking, washing and ironing clothes, taking care of children, or elderly or sick members of a family, gardening, guarding the house, driving for the family, even taking care of household pets.

Who is a domestic worker?

Under the Convention, a domestic worker is "any person engaged in domestic work within an employment relationship".

A domestic worker may work on full-time or part-time basis; may be employed by a single household or by multiple employers; may be residing in the household of the employer (live-in worker) or may be living in his or her own residence (live-out). A domestic worker may be working in a country of which she/he is not a national.

All domestic workers are covered by Convention No. 189, although countries may decide to exclude some categories, under very strict conditions.

Who is the employer of a domestic worker?

The employer of a domestic worker may be a member of the household for which the work is performed, or an agency or enterprise that employs domestic workers and makes them available to households.

In implementing the Convention, will workers and employers be consulted?

The provisions of the Convention are to be implemented in consultation with the most representative workers' and employers' organizations (Article 18).

In addition, the Convention requires Governments to consult with the most representative organizations of employers and workers and, where they exist, with organizations that represent domestic workers and organizations that represent employers of domestic workers on four particular matters: (i) identifying categories of workers who would be excluded from the scope of the Convention; (ii) measures on occupational safety and health; (iii) measures on social security; and (iv) measures to protect workers from abusive practices by private employment agencies (Articles 2, 13 & 15).

What can domestic workers do to enjoy the protections offered by Convention No. 189?

Convention No. 189 affirms the fundamental rights of domestic workers. It sets minimum labour standards for domestic workers.

Domestic workers can:

- organize & mobilize support for the ratification and implementation of the Convention by their Governments;
- use the provisions of the Convention and the Recommendation to influence changes in laws and improve the working and living conditions of domestic workers, regardless of whether or not the country in which they work has ratified Convention No. 189.

What are the minimum standards set by Convention No. 189 for domestic workers?

Basic rights of domestic workers

- Promotion and protection of the human rights of all domestic workers (Preamble; Article 3).
- Respect and protection of fundamental principles and rights at work: (a) freedom of association and the effective recognition of the right to collective bargaining; (b) elimination of all forms of forced or compulsory labour; (c) abolition of child labour; and (d) elimination of discrimination in respect of employment and occupation (Articles 3, 4, 11).
- Effective protection against all forms of abuse, harassment and violence (Article 5).
- Fair terms of employment and decent living conditions (Article 6).

Information on terms and conditions of employment

- Domestic workers must be informed of their terms and conditions of employment in an easily understandable manner, preferably through a written contract (Article 7).

Hours of work

- Measures aimed at ensuring equal treatment between domestic workers and workers generally with respect to normal hours of work, overtime compensation, periods of daily and weekly rest, and annual paid leave (Article 10).
- Weekly rest period of at least 24 consecutive hours of work (Article 10).
- Regulation of stand-by hours (periods during which domestic workers are not free to dispose of their time as they please and are

required to remain at the disposal of the household in order to respond to possible calls) (Article 10).

Remuneration

- Minimum wage if a minimum wage exists for other workers (Article 11).
- Payment of wages must be paid in cash, directly to the worker, and at regular interval of no longer than one month. Payment by cheque or bank transfer – when allowed by law or collective agreements, or with worker's consent (Article 12)
- In-kind payment is allowed under 3 conditions: only a limited proportion of total remuneration; monetary value is fair and reasonable; the items or services given as in-kind payment are of personal use by and benefit to the workers. This means that uniforms or protective equipments are not to be regarded as payment in kind, but as tools that the employer must provide to the workers at no cost to them for the performance of their duties (Article 12).
- Fees charged by private employment agencies are not to be deducted from the remuneration (Article 15).

Occupational safety and health

- Right to safe and healthy working environment (Article 13).
- Measures are put in place to ensure workers' occupational safety and health (Article 13).

Social security

- Social security protection, including maternity benefits (Article 14).
- Conditions that are not less favourable than those applicable to workers generally (Article 14).

Standards concerning child domestic workers

- Requirement to set a minimum age for entry into domestic work (Article 4).
- Domestic workers aged 15 years old but less than 18 years old – their work should not deprive them of compulsory education, or interfere with their opportunities for further education or vocational training (Article 4).

Standards concerning live-in workers

- Decent living conditions that respect the workers' privacy (Article 6).
- Freedom to reach agreement with their employers or potential employers on whether or not to reside in the household (Article 9).
- No obligation to remain in the household or with its members during their periods of rest or leave (Article 9).
- Right to keep their identity and travel documents in their possession (Article 9).
- Regulation of stand-by hours (Article 10).

Standards concerning migrant domestic workers

- A written contract that is enforceable in the country of employment, or a written job offer, prior to traveling to the country of employment (Article 8).
- Clear conditions under which domestic workers are entitled to repatriation at the end of their employment (Article 8).
- Protection of domestic workers from abusive practices by private employment agencies (Article 15).

- Cooperation among sending and receiving countries to ensure the effective application of the provisions of the Convention to migrant domestic workers (Article 8).

Private employment agencies

Measures to be put in place (Article 15):

- regulate of the operation of private employment agencies;
- ensure adequate machinery for the investigation of complaints by domestic workers;
- provide adequate protection of domestic workers and prevention of abuses, in collaboration with other Members where appropriate;
- consider concluding bilateral, regional or multilateral agreements to prevent abuses and fraudulent practices.

Dispute settlement, complaints, enforcement

- Effective access to the court, tribunals or other dispute settlement mechanisms, including accessible complaint mechanisms (Article 17).
- Measures to be put in place to ensure compliance with national laws for the protection of domestic workers, including labour inspection measures. In in regard, the Convention recognizes the need to balance domestic workers' right to protection and the right to privacy of the households' members (Article 17).

**For more information, please contact us,
or the nearest International Labour Office in your country or region.**

Full text of Convention No. 189 is available at: <http://www.ilo.org/ilolex/english/convdisp1.htm>

Full text of Recommendation No. 201 is available at: <http://www.ilo.org/ilolex/english/reccdisp1.htm>

Conditions of Work and Employment Programme (TRAVAIL)

Social Protection Sector
International Labour Office
Route des Morillons 4
CH-1211 Geneva 22, Switzerland

Tel. +41 22 799 67 54
Fax. +41 22 799 84 51
travail@ilo.org
www.ilo.org/travail

Develop and implement an action plan for the ratification of C189

ACTIVITY	TIMELINE	FOCAL AGENCY
<p>1. Develop DOLE position on Kasambahay Bill (to ensure that the bill is aligned with C189)</p> <p>1.a – recommend a position with respect to minimum wage</p> <p>1.b – update on status in the House Committee on Labor</p> <p>1. c – gather information with respect to issues of congressmen with respect to the bills.</p> <p>1.d – look into comparison between the bills and C189 and R201.</p> <p style="padding-left: 40px;">- Conduct research to analyze country's readiness in law and in practice of C189.</p> <p>1.e – DOLE to sponsor a forum with the TWG on the Philippine Campaign for Decent Work for Domestic Workers. (inputs on the bills and discussion of issues to take up in the forum leading to the identification of country position)</p> <p>Forum Output = country position on the Kasambahay Bill</p>	<p>September- November 2011</p> <p>September 2011</p> <p>September - October 2011</p> <p>September- November 2011</p> <p>11 October 2011</p>	<p>NWPC</p> <p>DLLO</p> <p>DLLO</p> <p>ILS (to take lead), BWSC and NWPC</p> <p>ILAB</p>
<p>2. Conduct advocacy activities to support the passage of the Kasambahay Bill and ratification of C189</p> <p>2.a - Develop communications plan (PR, website, media appearances, etc.)</p>	<p>September - October 2011</p> <p>27-28 October 2011</p>	<p>LCO with the LIOs network, OWWA</p> <p>ILAB</p>

<p>2.b – Forum workshop of the TWG with the ILO experts</p> <p>2.c - Forum with legislators</p> <p>2.d – Forum with local and overseas recruitment agencies of domestic workers</p> <p>2.e - Generate international support particularly from Labor receiving countries</p> <p>2.e.1 – multilateral and bilateral efforts such as:</p> <p>2.e.1.a – MOU with Middle East</p> <p>2.e.1.b – IOM initiatives</p> <p>2.e.1.c – GFMD initiatives</p> <p>2.e.1.d - ASEAN drafting team and ACMW meetings to craft instrument implementing the Cebu declaration to protect the rights of migrants in the ASEAN</p> <p>2.e.2 – POLO initiatives such as networking, etc -POLO action plan</p>	<p>4th week of October 2011</p> <p>27-28 October</p> <p>Ongoing</p> <p>Ongoing</p> <p>Ongoing – (September 2011 forum on DW in Jamaica)</p> <p>Ongoing – (September 2011 Manila meeting)</p> <p>September - November 2011</p>	<p>DLLO</p> <p>BLE and POEA</p> <p>ILAB</p> <p>POEA ILAB ILAB</p> <p>ILAB and POEA</p> <p>ILAB and OWWA</p>
<p>3. TIPC resolution endorsing the ratification of C189</p>	<p>November 2011</p>	<p>BLR and ILAB</p>
<p>4. Ratification process</p> <ul style="list-style-type: none"> • Endorsement to DFA 	<p>November 2011</p>	<p>ILAB and DLLO</p>

PHILIPPINE POLICY AND PRACTICE ON DOMESTIC WORK VIS-À-VIS CONVENTION 189

A CURSORY ASSESSMENT



SUMMARY OF PHILIPPINE COMPLIANCE TO C189

Article	Compliance
Art. 1: Definition	✘
Art. 2: Scope	✘
Art. 3: Human rights, fundamental rights at work	✘ (collective bargaining)
Art. 4: Child Domestic Labor	✓
Art. 5: Protection against abuse	✓
Art. 6: Fair terms and conditions of employment, decent working and living conditions and right to privacy	✓
Art. 7: Written contract	✘
Art. 8: Protection of migrant domestic workers	✓

Article	Compliance
Art. 9: Live-in/live-out arrangement, identity and travel documents	✘
Art. 10: Working time	✘
Art. 11: Minimum wage coverage	✓
Art. 12: Payment of wages	✓
Art. 13: Occupational safety and health	✘
Art. 14: Social security	✓
Art. 15: Protection against abusive practices by employment agencies	✓
Art. 16: Access to dispute settlement procedures	✓
Art. 17: Complaint mechanisms, labor inspector/enforcement	✘ (labor inspection)

DEFINITION AND SCOPE OF DOMESTIC WORK

Convention

- Domestic work - work performed in or for a household or households;
- Domestic worker - any person engaged in domestic work within an employment relationship;
- Applies to all domestic workers;
- Exceptions: a person who performs domestic work only occasionally or sporadically and not as a means of earning a living is not a domestic worker.

Policy/practice

- Labor Code
 - Domestic or household service
 - service in the employer's home which is usually necessary or desirable for the maintenance and enjoyment thereof and includes ministering to the personal comfort and convenience of the members of the employer's household, including services of family drivers.

DEFINITION AND SCOPE OF DOMESTIC WORK

- Househelper
 - synonymous to the term "domestic servant";
 - any person, whether male or female, who renders services in and about the employer's home and which services are usually necessary or desirable for the maintenance and enjoyment thereof, and ministers exclusively to the personal comfort and enjoyment of the employer's family.
- Labor Code covers all persons rendering services in households for compensation
- TESDA training regulations for household services covers core competencies:
 - Clean living room, dining room, bedrooms, toilet and kitchen
 - Wash and iron clothes, linen and fabric
 - Prepare hot and cold meals/food
 - Provide food and beverage service

DEFINITION AND SCOPE OF DOMESTIC WORK

Gap:

- Existing definitions are not fully consistent with C189 definition of domestic work
 - Labor Code: *"...includes ministering to the personal comfort and convenience of the members of the employer's household."*
- National definitions are inconsistent
- unclear inclusions and exclusions to the definition of domestic work
 - Child care is not a core competence for household service workers under TESDA regulations
 - POEA HSW Reform Package includes family drivers as household service workers

FREEDOM OF ASSOCIATION AND RIGHT TO COLLECTIVE BARGAINING

Convention, Art. 3

- protection of fundamental rights at work including freedom of association and the effective recognition of the right to collective bargaining;
- protect the right of domestic workers and employers of domestic workers to join organizations, federations and confederations of their own choosing

Policy/practice

- *Labor Code, Art. 243* guarantees domestic workers of right to organize for mutual aid and protection

Gap

- No specific provision on the exercise of right to collective bargaining
- No established policy for on the right of migrant domestic workers to freedom of association and right to collective bargaining

CHILD DOMESTIC LABOR

Convention, Art. 4:

- Consistent with Minimum Age Convention, 1973 (No. 138) and Worst Forms of Child Labour Convention, 1999
- not lower than established by national laws and regulations for workers generally
- domestic workers under the age of 18 and above the minimum age of employment not deprived of compulsory schooling, further education or vocational training

Policy/practice

- *Labor Code:*
 - 15 y.o. employable age
 - Children of househelpers are not required to perform any substantial household work
 - If the househelper is under 18 y.o., the employer shall give him or her an opportunity for at least elementary education. The cost of education shall be part of the househelper's compensation, unless there is a stipulation to the contrary.

CHILD DOMESTIC LABOR

- *RA 9231: An Act Providing for the Elimination of the Worst Forms of Child Labor*
 - Prohibits employment of children below 15 y.o.
 - A child 15 yo. but below 18 y.o. shall not be allowed to work for more than 8 hrs/day, and in no case beyond 40 hrs/week.
 - No child 15 y.o. but below 18 y.o. shall not be allowed to work between 10pm in the evening and 6am of the following day.
- *DOLE DO No. 04-1999*: prohibits employment of workers below 18 in work under particularly difficult conditions such as work for long hours or during the night, or work where the child is unreasonably confined to the premises of the employer
- *HSW Reform Package*: 23 y.o. employable age for migrant domestic workers
- *PRPA Rules and Regulations* prohibits recruitment of children below 15 years of age or place children below 18 years old in hazardous occupation

CHILD DOMESTIC LABOR

Gap

- No clear guidelines to determine whether domestic work is hazardous for 15-17 y.o.
- If ever allowable work for 15-17 y.o. will be developed, monitoring of implementation remains difficult

TERMS AND CONDITIONS IN WRITTEN CONTRACT

Convention, Art. 7:

- 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

Policy/Practice

- *Labor Code, Art. 142*: original contract shall not last for more than (2) years; renewable upon agreement by the parties.
- POEA Master Employment Contract and PRPA Model Contract provide for terms and conditions for employment

TERMS AND CONDITIONS IN WRITTEN CONTRACT

Gap

- No established policy on manner of informing domestic workers of their terms and conditions of employment
- Except for the duration of the employment contract, no policy on the form and content of the written contract
- Terms and conditions for employment not established in the Labor Code

RIGHT TO PRIVACY

Convention

- *Art. 6: Fair terms of employment and decent working conditions: accommodations*
- *Recommendation Par. 3: Medical testing*

Policy/practice

- *Labor Code: The employer shall furnish the househelper, free of charge, suitable and sanitary living quarters as well as adequate food and medical attendance.*
- Constitutional guarantee to right to privacy

Gap

- Monitoring of compliance

WORKING TIME

Convention

- *Art. 10: Working Time*
 - equal treatment between domestic workers and workers in relation to:
 - normal hours of work
 - overtime compensation
 - periods of daily and weekly rest and paid annual leave
 - Weekly rest shall be at least 24 consecutive hours
 - Stand-by period is regarded as part of hours of work

Policy/practice

- *Labor Code IRR, Book 3, Conditions of Employment, Rule 1: Hours of Work, Sec. 2 Exemptions: d) Domestic Servants*

HOURS OF WORK

- *POEA Standard Employment Contract:*
 - Regular working hrs max of 8 hrs/day, 6 days/week
- Standard Employment Contract for Domestic Workers hired through PRPAs

Gap

- Existing national policy exempts domestic workers with respect to the regulation of hours of work

MINIMUM WAGE

Convention, Art. 11:

- minimum wage coverage, where such coverage exists
- without discrimination based on sex
- **Policy/practice**
 - *Labor Code, Employment of Househelpers, Art. 143, Minimum Wage:*
 - PHP800.00/mo for househelpers in NCR
 - PHP650.00/mo for those in other chartered cities and first-class municipalities; and
 - PHP550.00/mo for those in other municipalities.
 - adjustment of wages every 3 years upon review of employment contract

MINIMUM WAGE

- *Prevailing rates:*
 - PhP2,000 (QC, 2005)
 - Php2,249 – Php4,750 (SSS data)
 - Overseas: \$400 (POEA HSW Reform Package)

Gap

- Current law on wage monitoring and adjustment does not cover domestic workers (*RA 6727: Wage Rationalization Act*)

OCCUPATIONAL SAFETY AND HEALTH

Convention, Art. 13:

- right to a safe and healthy working environment
- ensure the occupational safety and health of domestic workers
- may be applied progressively

Policy/practice

- *Labor Code, Sec. 13. Board, lodging and medical attendance:* The employer shall furnish the househelper free suitable and sanitary living quarters as well as adequate food and medical attendance.
- *Migrant Workers Act:*
 - Sec. 19. Establishment Of A Migrant Workers And Other Overseas Filipinos Resource Center with the following services: (b) Welfare assistance including the procurement of medical and hospitalization services;

OCCUPATIONAL SAFETY AND HEALTH

- OSH is one of the modules in the Pre-Departure Orientation Seminar (PDOS) for migrant workers

Gap

- Current OSHS does not establish standards for Domestic Work
- Current OSH policies for migrant domestic workers is more on rehabilitative measures, rather than preventive

SOCIAL SECURITY

Convention, Art. 12:

- enjoy conditions that are not less favourable than those applicable to workers generally in respect of social security protection, including with respect to maternity
- Maybe applied progressively

Policy/practice

- Social security coverage:
 - *Labor Code*: Househelpers receiving at least PHP1,000.00 shall be covered by the SSS and be entitled to all the benefits provided thereunder, under amendment RA 7655 of 1993. The premium shall be shouldered by the employer.
 - *SSS data*: Enrollment of domestic workers are mostly voluntary
- *PhilHealth*: access to membership can be done through employer or voluntary means

SOCIAL SECURITY

- *PAG-IBIG*: Domestic workers earning Php1,000 are mandatory members
- *Migrant Workers Act: SEC. 37-A*. Compulsory Insurance Coverage for Agency-Hired Workers at no cost to the said worker
- *POEA Standard Employment Contract*: personal life accident insurance in accordance with host government and/ or Philippine government laws w/o cost to the worker

Gap

- SSS law provides for mandatory coverage and payment of employer counterpart however there is no way of monitoring if employer provides for counterpart contribution

ACCESS TO DISPUTE SETTLEMENT PROCEDURES

Convention, Art. 16

- effective access to courts, tribunals or other dispute resolution mechanisms under conditions

Policy/practice

- *Labor Code, Book 3, Conditions of Employment, Rule XI: Adjudicatory Powers, Sec. 1. Recovery of wages, simple money claims and other benefits covers persons employed in domestic or household service or househelpers*
- *Katarungang Pambaranggay* covers complaints on violations regarding human rights except violation of terms and conditions of employment

ACCESS TO DISPUTE SETTLEMENT PROCEDURES

- *Migrant Workers Act:*
 - Free access to the courts and quasi-judicial bodies and adequate legal assistance
 - effective mechanism instituted to ensure that the rights and interest of distressed overseas Filipinos, in general, and Filipino migrant workers, whether regular/documented or irregular/undocumented
 - Sec. 13. Free Legal Assistance
- OWWA Workers Assistance and on-site services

Gap

- Except simple money claims, current labor dispute mechanisms are unclear with respect to disputes arising from the violation of the terms and conditions of employment of domestic workers

LABOR INSPECTION

Convention

- *Art. 17, Par 2:* develop and implement measures for labour inspection, enforcement and penalties
- *Art. 17, Par. 3:* specify the conditions under which access to household premises may be granted, having due respect for privacy

Policy/practice

- *Labor Code, Book 3, Conditions of Employment, Ch. VI, Administration and Enforcement, Art. 128: Visitorial and enforcement power:* covers any employee and in cases where the relationship of employer-employee relationship exists
- *POEA Inspection Manual:* Compliance of licensed recruitment agencies is monitored through inspection activities
- *PRPA Rules:* Inspectorate and enforcement functions: the Regional Director or his duly authorized representative shall have access to the licensee's records and premises

LABOR INSPECTION

Gap

- Inspectorate system only applies to establishments and not to private households
- POEA inspection only covers private recruitment agencies
- PRPA inspection only covers private employment agencies

C189 Domestic Workers Convention, 2011

Convention concerning decent work for domestic workers (Note: Date of coming into force:)

Convention:C189

Place:Geneva

Date of adoption:16:06:2011

Session of the Conference:100

Subject:

[See the ratifications for this Convention](#)

Display the document in: [French](#) [Spanish](#)

Status: Up-to-date instrument This Convention was adopted after 1985 and is considered up to date.

The General Conference of the International Labour Organization, Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 100th Session on 1 June 2011, and

Mindful of the commitment of the International Labour Organization to promote decent work for all through the achievement of the goals of the ILO Declaration on Fundamental Principles and Rights at Work and the ILO Declaration on Social Justice for a Fair Globalization, and

Recognizing the significant contribution of domestic workers to the global economy, which includes increasing paid job opportunities for women and men workers with family responsibilities, greater scope for caring for ageing populations, children and persons with a disability, and substantial income transfers within and between countries, and

Considering that domestic work continues to be undervalued and invisible and is mainly carried out by women and girls, many of whom are migrants or members of disadvantaged communities and who are particularly vulnerable to discrimination in respect of conditions of employment and of work, and to other abuses of human rights, and

Considering also that in developing countries with historically scarce opportunities for formal employment, domestic workers constitute a significant proportion of the national workforce and remain among the most marginalized, and

Recalling that international labour Conventions and Recommendations apply to all workers, including domestic workers, unless otherwise provided, and

Noting the particular relevance for domestic workers of the Migration for Employment Convention (Revised), 1949 (No. 97), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), the Workers with Family Responsibilities Convention, 1981 (No. 156), the Private Employment Agencies Convention, 1997 (No. 181), and the Employment Relationship Recommendation, 2006 (No. 198), as well as of the ILO Multilateral Framework on Labour Migration: Non-binding principles and guidelines for a rights-based approach to labour migration (2006), and

Recognizing the special conditions under which domestic work is carried out that make it desirable to supplement the general standards with standards specific to domestic workers so as to enable them to enjoy their rights fully, and

Recalling other relevant international instruments such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the United Nations Convention against Transnational Organized Crime, and in particular its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and its Protocol against the Smuggling of Migrants by Land, Sea and Air, the Convention on the Rights of the Child and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and

Having decided upon the adoption of certain proposals concerning decent work for domestic workers, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention;

adopts this sixteenth day of June of the year two thousand and eleven the following Convention, which may be cited as the Domestic Workers Convention, 2011.

Article 1

For the purpose of this Convention:

- (a) the term **domestic work** means work performed in or for a household or households;
- (b) the term **domestic worker** means any person engaged in domestic work within an employment relationship;
- (c) a person who performs domestic work only occasionally or sporadically and not on an occupational basis is not a domestic worker.

Article 2

1. The Convention applies to all domestic workers.
2. A Member which ratifies this Convention may, after consulting with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers, exclude wholly or partly from its scope:

- (a) categories of workers who are otherwise provided with at least equivalent protection;
- (b) limited categories of workers in respect of which special problems of a substantial nature arise.

3. Each Member which avails itself of the possibility afforded in the preceding paragraph shall, in its first report on the application of the Convention under article 22 of the Constitution of the International Labour Organisation, indicate any particular category of workers thus excluded and the reasons for such exclusion and, in subsequent reports, specify any measures that may have been taken with a view to extending the application of the Convention to the workers concerned.

Article 3

1. Each Member shall take measures to ensure the effective promotion and protection of the human rights of all domestic workers, as set out in this Convention.
2. Each Member shall, in relation to domestic workers, take the measures set out in this Convention to respect, promote and realize the fundamental principles and rights at work, namely:
 - (a) freedom of association and the effective recognition of the right to collective bargaining;
 - (b) the elimination of all forms of forced or compulsory labour;
 - (c) the effective abolition of child labour; and
 - (d) the elimination of discrimination in respect of employment and occupation.
3. In taking measures to ensure that domestic workers and employers of domestic workers enjoy freedom of association and the effective recognition of the right to collective bargaining, Members shall protect the right of domestic workers and employers of domestic workers to establish and, subject to the rules of the organization concerned, to join organizations, federations and confederations of their own choosing.

Article 4

1. Each Member shall set a minimum age for domestic workers consistent with the provisions of the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182), and not lower than that established by national laws and regulations for workers generally.
2. Each Member shall take measures to ensure that work performed by domestic workers who are under the age of 18 and above the minimum age of employment does not deprive them of compulsory education, or interfere with opportunities to participate

in further education or vocational training.

Article 5

Each Member shall take measures to ensure that domestic workers enjoy effective protection against all forms of abuse, harassment and violence.

Article 6

Each Member shall take measures to ensure that domestic workers, like workers generally, enjoy fair terms of employment as well as decent working conditions and, if they reside in the household, decent living conditions that respect their privacy.

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 agreements, in particular:

- (a) the name and address of the employer and of the worker;
- (b) the address of the usual workplace or workplaces;
- (c) the starting date and, where the contract is for a specified period of time, its duration;
- (d) the type of work to be performed;
- (e) the remuneration, method of calculation and periodicity of payments;
- (f) the normal hours of work;
- (g) paid annual leave, and daily and weekly rest periods;
- (h) the provision of food and accommodation, if applicable;
- (i) the period of probation or trial period, if applicable;
- (j) the terms of repatriation, if applicable; and
- (k) terms and conditions relating to the termination of employment, including any period of notice by either the domestic worker or the employer.

Article 8

1. National laws and regulations shall require that migrant domestic workers who are

recruited in one country for domestic work in another receive a written job offer, or contract of employment that is enforceable in the country in which the work is to be performed, addressing the terms and conditions of employment referred to in Article 7, prior to crossing national borders for the purpose of taking up the domestic work to which the offer or contract applies.

2. The preceding paragraph shall not apply to workers who enjoy freedom of movement for the purpose of employment under bilateral, regional or multilateral agreements, or within the framework of regional economic integration areas.

3. Members shall take measures to cooperate with each other to ensure the effective application of the provisions of this Convention to migrant domestic workers.

4. Each Member shall specify, by means of laws, regulations or other measures, the conditions under which migrant domestic workers are entitled to repatriation on the expiry or termination of the employment contract for which they were recruited.

Article 9

Each Member shall take measures to ensure that domestic workers:

(a) are free to reach agreement with their employer or potential employer on whether to reside in the household;

(b) who reside in the household are not obliged to remain in the household or with household members during periods of daily and weekly rest or annual leave; and

(c) are entitled to keep in their possession their travel and identity documents.

Article 10

1. Each Member shall take measures towards ensuring equal treatment between domestic workers and workers generally in relation to normal hours of work, overtime compensation, periods of daily and weekly rest and paid annual leave in accordance with national laws, regulations or collective agreements, taking into account the special characteristics of domestic work.

2. Weekly rest shall be at least 24 consecutive hours.

3. Periods during which domestic workers are not free to dispose of their time as they please and remain at the disposal of the household in order to respond to possible calls shall be regarded as hours of work to the extent determined by national laws, regulations or collective agreements, or any other means consistent with national practice.

Article 11

Each Member shall take measures to ensure that domestic workers enjoy minimum wage coverage, where such coverage exists, and that remuneration is established without discrimination based on sex.

Article 12

1. Domestic workers shall be paid directly in cash at regular intervals at least once a month. Unless provided for by national laws, regulations or collective agreements, payment may be made by bank transfer, bank cheque, postal cheque, money order or other lawful means of monetary payment, with the consent of the worker concerned.

2. National laws, regulations, collective agreements or arbitration awards may provide for the payment of a limited proportion of the remuneration of domestic workers in the form of payments in kind that are not less favourable than those generally applicable to other categories of workers, provided that measures are taken to ensure that such payments in kind are agreed to by the worker, are for the personal use and benefit of the worker, and that the monetary value attributed to them is fair and reasonable.

Article 13

1. Every domestic worker has the right to a safe and healthy working environment. Each Member shall take, in accordance with national laws, regulations and practice, effective measures, with due regard for the specific characteristics of domestic work, to ensure the occupational safety and health of domestic workers.

2. The measures referred to in the preceding paragraph may be applied progressively, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers.

Article 14

1. Each Member shall take appropriate measures, in accordance with national laws and regulations and with due regard for the specific characteristics of domestic work, to ensure that domestic workers enjoy conditions that are not less favourable than those applicable to workers generally in respect of social security protection, including with respect to maternity.

2. The measures referred to in the preceding paragraph may be applied progressively, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers.

Article 15

1. To effectively protect domestic workers, including migrant domestic workers, recruited or placed by private employment agencies, against abusive practices, each Member shall:

(a) determine the conditions governing the operation of private employment agencies recruiting or placing domestic workers, in accordance with national laws, regulations and practice;

(b) ensure that adequate machinery and procedures exist for the investigation of complaints, alleged abuses and fraudulent practices concerning the activities of private employment agencies in relation to domestic workers;

(c) adopt all necessary and appropriate measures, within its jurisdiction and, where appropriate, in collaboration with other Members, to provide adequate protection for and prevent abuses of domestic workers recruited or placed in its territory by private employment agencies. These shall include laws or regulations that specify the respective obligations of the private employment agency and the household towards the domestic worker and provide for penalties, including prohibition of those private employment agencies that engage in fraudulent practices and abuses;

(d) consider, where domestic workers are recruited in one country for work in another, concluding bilateral, regional or multilateral agreements to prevent abuses and fraudulent practices in recruitment, placement and employment; and

(e) take measures to ensure that fees charged by private employment agencies are not deducted from the remuneration of domestic workers.

2. In giving effect to each of the provisions of this Article, each Member shall consult with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers.

Article 16

Each Member shall take measures to ensure, in accordance with national laws, regulations and practice, that all domestic workers, either by themselves or through a representative, have effective access to courts, tribunals or other dispute resolution mechanisms under conditions that are not less favourable than those available to workers generally.

Article 17

1. Each Member shall establish effective and accessible complaint mechanisms and means of ensuring compliance with national laws and regulations for the protection of

domestic workers.

2. Each Member shall develop and implement measures for labour inspection, enforcement and penalties with due regard for the special characteristics of domestic work, in accordance with national laws and regulations.

3. In so far as compatible with national laws and regulations, such measures shall specify the conditions under which access to household premises may be granted, having due respect for privacy.

Article 18

Each Member shall implement the provisions of this Convention, in consultation with the most representative employers and workers organizations, through laws and regulations, as well as through collective agreements or additional measures consistent with national practice, by extending or adapting existing measures to cover domestic workers or by developing specific measures for them, as appropriate.

Article 19

This Convention does not affect more favourable provisions applicable to domestic workers under other international labour Conventions.

Article 20

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 21

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General of the International Labour Office.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification is registered.

Article 22

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is

registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention within the first year of each new period of ten years under the terms provided for in this Article.

Article 23

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications and denunciations that have been communicated by the Members of the Organization.

2. When notifying the Members of the Organization of the registration of the second ratification that has been communicated, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention will come into force.

Article 24

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and denunciations that have been registered.

Article 25

At such times as it may consider necessary, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 26

1. Should the Conference adopt a new Convention revising this Convention, then, unless the new Convention otherwise provides:

(a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 22, if and when the new revising Convention shall have come into force;

(b) as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for

those Members which have ratified it but have not ratified the revising Convention.

Article 27

The English and French versions of the text of this Convention are equally authoritative.

Cross references

Supplemented: R201 Domestic Workers Recommendation, 2011

Conventions: C097 Migration for Employment Convention (Revised), 1949

Conventions: C138 Minimum Age Convention, 1973

Conventions: C143 Migrant Workers (Supplementary Provisions) Convention, 1975

Conventions: C156 Workers with Family Responsibilities Convention, 1981

Conventions: C181 Private Employment Agencies Convention, 1997

Conventions: C182 Worst Forms of Child Labour Convention, 1999

Recommendations: R198 Employment Relationship Recommendation, 2006

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Recommendation 201

**RECOMMENDATION CONCERNING
DECENT WORK FOR DOMESTIC WORKERS**

The General Conference of the International Labour Organization, Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 100th Session on 1 June 2011, and Having adopted the Domestic Workers Convention, 2011, and Having decided upon the adoption of certain proposals with regard to decent work for domestic workers, which is the fourth item on the agenda of the session, and Having determined that these proposals shall take the form of a Recommendation supplementing the Domestic Workers Convention, 2011; adopts this sixteenth day of June of the year two thousand and eleven the following Recommendation, which may be cited as the Domestic Workers Recommendation, 2011.

1. The provisions of this Recommendation supplement those of the Domestic Workers Convention, 2011 ("the Convention"), and should be considered in conjunction with them.
2. In taking measures to ensure that domestic workers enjoy freedom of association and the effective recognition of the right to collective bargaining, Members should:
 - (a) identify and eliminate any legislative or administrative restrictions or other obstacles to the right of domestic workers to establish their own organizations or to join the workers' organizations of their own choosing and to the right of organizations of domestic workers to join workers' organizations, federations and confederations;
 - (b) give consideration to taking or supporting measures to strengthen the capacity of workers' and employers' organizations, organizations representing domestic workers and those of employers of domestic workers, to promote effectively the interests of their members, provided that at all times the independence and autonomy, within the law, of such organizations are protected.
3. In taking measures for the elimination of discrimination in respect of employment and occupation, Members should, consistent with international labour standards, among other things:
 - (a) make sure that arrangements for work-related medical testing respect the principle of the confidentiality of personal data and the privacy of domestic workers, and are consistent with the ILO code of practice "Protection of workers' personal data" (1997), and other relevant international data protection standards;
 - (b) prevent any discrimination related to such testing; and
 - (c) ensure that no domestic worker is required to undertake HIV or pregnancy testing, or to disclose HIV or pregnancy status.

4. Members giving consideration to medical testing for domestic workers should consider:

- (a) making public health information available to members of the households and domestic workers on the primary health and disease concerns that give rise to any needs for medical testing in each national context;
- (b) making information available to members of the households and domestic workers on voluntary medical testing, medical treatment, and good health and hygiene practices, consistent with public health initiatives for the community generally; and
- (c) distributing information on best practices for work-related medical testing, appropriately adapted to reflect the special nature of domestic work.

5. (1) Taking into account the provisions of the Worst Forms of Child Labour Convention, 1999 (No. 182), and Recommendation (No. 190), Members should identify types of domestic work that, by their nature or the circumstances in which they are carried out, are likely to harm the health, safety or morals of children, and should also prohibit and eliminate such child labour.

(2) When regulating the working and living conditions of domestic workers, Members should give special attention to the needs of domestic workers who are under the age of 18 and above the minimum age of employment as defined by national laws and regulations, and take measures to protect them, including by:

- (a) strictly limiting their hours of work to ensure adequate time for rest, education and training, leisure activities and family contacts;
- (b) prohibiting night work;
- (c) placing restrictions on work that is excessively demanding, whether physically or psychologically; and
- (d) establishing or strengthening mechanisms to monitor their working and living conditions.

6. (1) Members should provide appropriate assistance, when necessary, to ensure that domestic workers understand their terms and conditions of employment.

(2) Further to the particulars listed in Article 7 of the Convention, the terms and conditions of employment should also include:

- (a) a job description;
- (b) sick leave and, if applicable, any other personal leave;
- (c) the rate of pay or compensation for overtime and standby consistent with Article 10(3) of the Convention;
- (d) any other payments to which the domestic worker is entitled;
- (e) any payments in kind and their monetary value;
- (f) details of any accommodation provided; and
- (g) any authorized deductions from the worker's remuneration.

(3) Members should consider establishing a model contract of employment for domestic work, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers.

(4) The model contract should at all times be made available free of charge to domestic workers, employers, representative organizations and the general public.

7. Members should consider establishing mechanisms to protect domestic workers from abuse, harassment and violence, such as:

- (a) establishing accessible complaint mechanisms for domestic workers to report cases of abuse, harassment and violence;
- (b) ensuring that all complaints of abuse, harassment and violence are investigated, and prosecuted, as appropriate; and
- (c) establishing programmes for the relocation from the household and rehabilitation of domestic workers subjected to abuse, harassment and violence, including the provision of temporary accommodation and health care.

8. (1) Hours of work, including overtime and periods of standby consistent with Article 10(3) of the Convention, should be accurately recorded, and this information should be freely accessible to the domestic worker.

(2) Members should consider developing practical guidance in this respect, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers, and those representative of employers of domestic workers.

9. (1) With respect to periods during which domestic workers are not free to dispose of their time as they please and remain at the disposal of the household in order to respond to possible calls (standby or on-call periods), Members, to the extent determined by national laws, regulations or collective agreements, should regulate:

- (a) the maximum number of hours per week, month or year that a domestic worker may be required to be on standby, and the ways they might be measured;
- (b) the compensatory rest period to which a domestic worker is entitled if the normal period of rest is interrupted by standby; and
- (c) the rate at which standby hours should be remunerated.

(2) With regard to domestic workers whose normal duties are performed at night, and taking into account the constraints of night work, Members should consider measures comparable to those specified in subparagraph 9(1).

10. Members should take measures to ensure that domestic workers are entitled to suitable periods of rest during the working day, which allow for meals and breaks to be taken.

11. (1) Weekly rest should be at least 24 consecutive hours.

(2) The fixed day of weekly rest should be determined by agreement of the parties, in accordance with national laws, regulations or collective agreements, taking into account work exigencies and the cultural, religious and social requirements of the domestic worker.

(3) Where national laws, regulations or collective agreements provide for weekly rest to be accumulated over a period longer than seven days for workers generally, such a period should not exceed 14 days for domestic workers.

12. National laws, regulations or collective agreements should define the grounds on which domestic workers may be required to work during the period of daily or weekly rest and provide for adequate compensatory rest, irrespective of any financial compensation.

13. Time spent by domestic workers accompanying the household members on holiday should not be counted as part of their paid annual leave.

14. When provision is made for the payment in kind of a limited proportion of remuneration, Members should consider:

- (a) establishing an overall limit on the proportion of the remuneration that may be paid in kind so as not to diminish unduly the remuneration necessary for the maintenance of domestic workers and their families;
- (b) calculating the monetary value of payments in kind by reference to objective criteria such as market value, cost price or prices fixed by public authorities, as appropriate;
- (c) limiting payments in kind to those clearly appropriate for the personal use and benefit of the domestic worker, such as food and accommodation;
- (d) ensuring that, when a domestic worker is required to live in accommodation provided by the household, no deduction may be made from the remuneration with respect to that accommodation, unless otherwise agreed to by the worker; and
- (e) ensuring that items directly related to the performance of domestic work, such as uniforms, tools or protective equipment, and their cleaning and maintenance, are not considered as payment in kind and their cost is not deducted from the remuneration of the domestic worker.

15. (1) Domestic workers should be given at the time of each payment an easily understandable written account of the total remuneration due to them and the specific amount and purpose of any deductions which may have been made.

(2) Upon termination of employment, any outstanding payments should be made promptly.

16. Members should take measures to ensure that domestic workers enjoy conditions not less favourable than those of workers generally in respect of the protection of workers' claims in the event of the employer's insolvency or death.

17. When provided, accommodation and food should include, taking into account national conditions, the following:

- (a) a separate, private room that is suitably furnished, adequately ventilated and equipped with a lock, the key to which should be provided to the domestic worker;
- (b) access to suitable sanitary facilities, shared or private;
- (c) adequate lighting and, as appropriate, heating and air conditioning in keeping with prevailing conditions within the household; and
- (d) meals of good quality and sufficient quantity, adapted to the extent reasonable to the cultural and religious requirements, if any, of the domestic worker concerned.

18. In the event of termination of employment at the initiative of the employer, for reasons other than serious misconduct, live-in domestic workers should be given a reasonable period of notice and time off during that period to enable them to seek new employment and accommodation.

19. Members, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers, should take measures, such as to:

- (a) protect domestic workers by eliminating or minimizing, so far as is reasonably practicable, work-related hazards and risks, in order to prevent injuries, diseases and deaths and promote occupational safety and health in the household workplace;

(b) provide an adequate and appropriate system of inspection, consistent with Article 17 of the Convention, and adequate penalties for violation of occupational safety and health laws and regulations;

(c) establish procedures for collecting and publishing statistics on accidents and diseases related to domestic work, and other statistics considered to contribute to the prevention of occupational safety and health related risks and injuries;

(d) advise on occupational safety and health, including on ergonomic aspects and protective equipment; and

(e) develop training programmes and disseminate guidelines on occupational safety and health requirements specific to domestic work.

20. (1) Members should consider, in accordance with national laws and regulations, means to facilitate the payment of social security contributions, including in respect of domestic workers working for multiple employers, for instance through a system of simplified payment.

(2) Members should consider concluding bilateral, regional or multilateral agreements to provide, for migrant domestic workers covered by such agreements, equality of treatment in respect of social security, as well as access to and preservation or portability of social security entitlements.

(3) The monetary value of payments in kind should be duly considered for social security purposes, including in respect of the contribution by the employers and the entitlements of the domestic workers.

21. (1) Members should consider additional measures to ensure the effective protection of domestic workers and, in particular, migrant domestic workers, such as:

- (a) establishing a national hotline with interpretation services for domestic workers who need assistance;

- (b) consistent with Article 17 of the Convention, providing for a system of pre-placement visits to households in which migrant domestic workers are to be employed;

- (c) developing a network of emergency housing;

- (d) raising employers' awareness of their obligations by providing information on good practices in the employment of domestic workers, employment and immigration law obligations regarding migrant domestic workers, enforcement arrangements and sanctions in cases of violation, and assistance services available to domestic workers and their employers;

- (e) securing access of domestic workers to complaint mechanisms and their ability to pursue legal civil and criminal remedies, both during and after employment, irrespective of departure from the country concerned; and

- (f) providing for a public outreach service to inform domestic workers, in languages understood by them, of their rights, relevant laws and regulations, available complaint mechanisms and legal remedies, concerning both employment and immigration law, and legal protection against crimes such as violence, trafficking in persons and deprivation of liberty, and to provide any other pertinent information they may require.

(2) Members that are countries of origin of migrant domestic workers should assist in the effective protection of the rights of these workers, by informing them of their rights before departure, establishing legal assistance funds, social services and specialized consular services and through any other appropriate measures.

22. Members should, after consulting with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers, consider specifying by means of laws, regulations or other measures, the conditions under which migrant domestic workers are entitled to repatriation at no cost to themselves on the expiry or termination of the employment contract for which they were recruited.

23. Members should promote good practices by private employment agencies in relation to domestic workers, including migrant domestic workers, taking into account the principles and approaches in the Private Employment Agencies Convention, 1997 (No. 181), and the Private Employment Agencies Recommendation, 1997 (No. 188).

24. In so far as compatible with national law and practice concerning respect for privacy, Members may consider conditions under which labour inspectors or other officials entrusted with enforcing provisions applicable to domestic work should be allowed to enter the premises in which the work is carried out.

25. (1) Members should, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers, establish policies and programmes, so as to:

(a) encourage the continuing development of the competencies and qualifications of domestic workers, including literacy training as appropriate, in order to enhance their professional development and employment opportunities;

(b) address the work-life balance needs of domestic workers; and

(c) ensure that the concerns and rights of domestic workers are taken into account in the context of more general efforts to reconcile work and family responsibilities.

(2) Members should, after consulting with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers, develop appropriate indicators and measurement systems in order to strengthen the capacity of national statistical offices to effectively collect data necessary to support effective policy-making regarding domestic work.

26. (1) Members should consider cooperating with each other to ensure the effective application of the Domestic Workers Convention, 2011, and this Recommendation, to migrant domestic workers.

(2) Members should cooperate at bilateral, regional and global levels for the purpose of enhancing the protection of domestic workers, especially in matters concerning the prevention of forced labour and trafficking in persons, the access to social security, the monitoring of the activities of private employment agencies recruiting persons to work as domestic workers in another country, the dissemination of good practices and the collection of statistics on domestic work.

(3) Members should take appropriate steps to assist one another in giving effect to the provisions of the Convention through enhanced international cooperation or assistance, or both, including support for social and economic development, poverty eradication programmes and universal education.

(4) In the context of diplomatic immunity, Members should consider:

(a) adopting policies and codes of conduct for diplomatic personnel aimed at preventing violations of domestic workers' rights; and

(b) cooperating with each other at bilateral, regional and multilateral levels to address and prevent abusive practices towards domestic workers.