



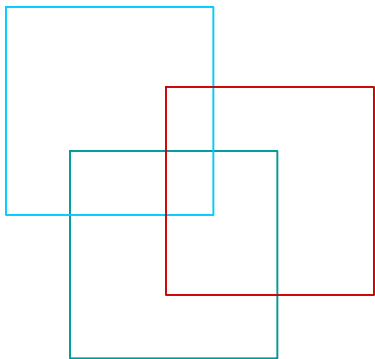
Promoting Decent Work for All

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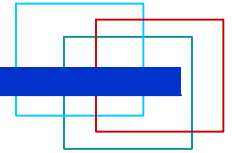
# Asian Domestic Workers Assembly, Manila, 17 - 18 June 2007

## *Labour Rights For Domestic Workers: Combating Exploitation and Abuse*

17 June 2007, Jakarta

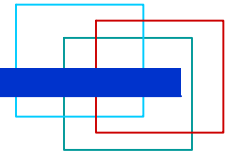


**Lotte Kejser,  
Chief Technical Advisor  
Migrant Workers Project,  
SEA  
ILO Jakarta**



## Contents of Presentation

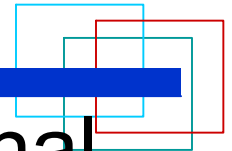
- 1. Domestic Workers Central Importance in National Development Strategies**
- 2. Domestic Workers: Vulnerabilities & Exploitation**
- 3. Domestic Workers: Migration**
- 4. International Labour Rights & ILO Multi-Lateral Framework on Migration**
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## Role of Domestic Work

Domestic work in Asia: Single-most important source of salary for women with low levels of education

Migrant domestic work: major growth sector fuelling feminization of labour migration, in Asia 60-75% of migrants female, the vast majority of female migrants are domestic workers



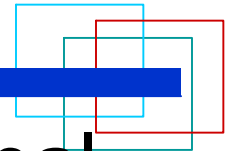
# Domestic Workers: Key Role in National Development Strategies

## **Sending countries:**

for the established labour sending countries  
**remittances are the most important source of national income**

-> **promotion of labour migration**, market competition among labour-sending countries  
**discourage protection policies**, “race to the bottom”?

No effective regional acknowledgement or implementation of minimum standards

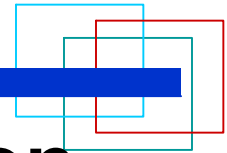


# Domestic Workers: Key Role in National Development Strategies

## Receiving countries:

female migrants substituting traditional role of female nationals in household, freeing up female nationals for skilled labour, **increasing household income & enhancing development capacity of receiving country**, migrant domestic workers **cost less than public services**,

high labour supply and absence of rights plus labour controls keeping **labour costs low for employers**, -> employers' sense of entitlement to low-cost domestic services, necessary for household to function (domestic services, care of children and elderly)



# Domestic Work: **Triple Discrimination**

Domestic Work substitutes unpaid work in the household traditionally done by women

-> traditional notions of submission/ control of subordinate women in household

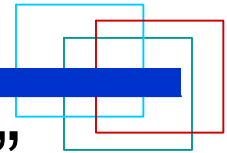
->No recognition of domestic work as “work”

->domestic worker defined as “unskilled” / “helper”

•**Domestic Workers suffer triple discrimination:**

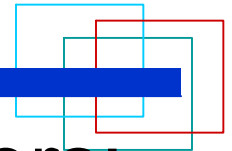
**As women, as informal sector workers, and as migrants**

Domestic Workers poorly organized, no strong lobby



## Vulnerability factors: “private sphere”

- **“privacy” of domestic sphere:**
- no regulation and monitoring/ labour inspection tolerated
- Domestic workers living in house and community of employer, don't have own support network nearby
- Employers isolate and control (“protect”) female domestic worker in household:
  - long working hours, no days off,
  - levy places the responsibility for “control” on employer, encourages perception of “ownership” of domestic worker
  - not allowed to go out, no communication, withholding ID & salary, search belongings
  - cannot meet/ organize/ get assistance



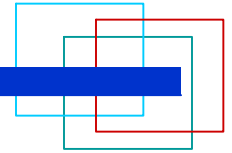
## Discrimination against Domestic Workers:

### **In General: Legislation & judicial process**

- No coverage in labour legislation or by social protection
- No right to organize or no de-facto representation by trade unions
- No or limited access to redress, justice and compensation

### **In Destination countries:**

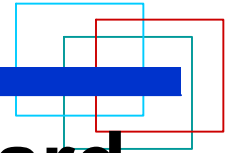
- No or limited right to change employer
- No or limited right to start new contract period
- Employer right to hold ID
- -> **dependency on employer** -> Abuse and exploitation, debt bondage, forced labour



# debt bondage & forced labour

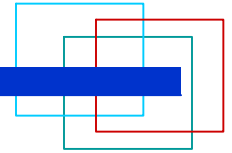
Common **forced labour practices** by employers and recruitment agencies: deception, contract substitution, debt bondage, withholding salary & ID, confinement, isolation, no communication, physical & sexual abuse

Fuelled by **impunity**: no effective access to justice for domestic workers, no law enforcement, no public scrutiny



## Domestic Work: **hard work/ poor reward**

- enumeration 20-50% of national minimum salary, (not justified by deductions for accommodation and food)
- Abroad min. 60% don't get paid contract salary
- Working hours 15-18Hs: 65%
- No regular holidays/few days off
- Insufficient food & accommodation
- Frequent physical/mental/ sexual abuse

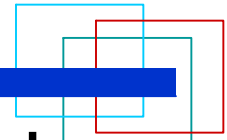


# International Concern

“Unparalleled vulnerability” (ILO and Anti-Slavery regional consultation, Feb. 2003 Hong Kong)

“Slavery” ( UN Working Group on Contemporary Forms of Slavery 1990)

“The last frontier of protecting people from violence” (UN Special Rapporteur on Violence against Women, Aug. 2002)



# ILO & UN Conventions rgd. Migrant Workers

**ILO C. 97 Migration for Employment** ( 45 ratifications including Sabah, Malaysia)

**ILO C 143 Migrant Workers** ( 21 ratifications including Philippines)

**ILO C 181 Private Employment Agencies** (adequate protection, prevent abuse) (20 ratifications, no ratification by ASEAN Countries yet)

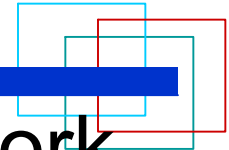
■ **ILO C 95 (1949) Protection of Wages** (at termination, prohibits deduction for ob/retaining employment)

**ILO C.118 Equality of Treatment (Social Security)** (equality in all 9 branches of social security) ( 38 ratifications including Philippines)

**ILO C 157 Maintainance of Social Security Rights** (for int. migrant workers, in both sending and receiving countries) ( 3 ratifications including Philippines)

**UN C Protection of Rights of Migrant Workers & Their Families** (36 ratifications including Philippines)

**Problem of application: very low rate of ratifications, particularly by destination countries.**



# ILO's 8 Core Conventions: Decent Work

**All labour rights conventions apply to migrant workers**

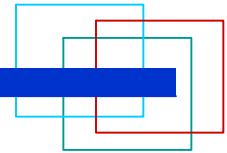
**& no of ratifications high -> easy to apply**

**Non-Discrimination (ILO C 100 & 111)** (ILO C 100: 163 ratifications, including Cambodia, Indonesia, **Malaysia**, Philippines, **Singapore**, **Thailand**, and Viet Nam. ILO C 111: 165 ratifications including Cambodia, Indonesia, Philippines, and Viet Nam)

**Freedom of Association (ILO C 87 & 89)** (ILO C 87: 147 ratifications including Cambodia, Indonesia, Myanmar, and Philippines. ILO C 89: 65 ratifications including Philippines, Indonesia)

**Ban on Forced Labour (ILO C 29 & 105)** (ILO C 29: 171 ratifications including Cambodia, Indonesia, Lao PDR, **Malaysia**, Philippines, **Singapore**, **Thailand**, and Viet Nam. ILO C 105: 167 ratifications including Cambodia, Indonesia, **Malaysia**, Philippines, **Singapore**, and **Thailand**)

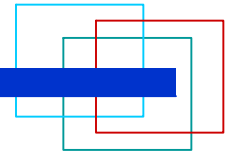
**Ban on Child Labour (ILO C 138 & 182)** (ILO C 138: 147 ratifications including Cambodia, Indonesia, **Malaysia**, Philippines, **Singapore**, Thailand and Viet Nam. ILO C 182: 163 ratifications including Cambodia, Indonesia, Lao PDR, **Malaysia**, Philippines, **Singapore**, **Thailand** and Viet Nam)



## Human Rights Conventions

**All human rights conventions apply to migrant workers  
& no of ratifications high -> easy to apply**

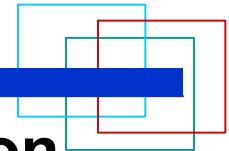
- **ICCPR I.C. Civil and Political Rights** (160 ratifications including Cambodia, Indonesia, Lao PDR, Philippines, **Thailand**, and Viet Nam)
- **ICESCR I.C. Ec. Soc. Cultural Rights** (155 ratifications including Cambodia, Indonesia, Lao PDR, Philippines, **Thailand** and Viet Nam)
- **Suppl. C. on the Abolition of Slavery.. and institutions and practices similar to slavery** (serfdom, debt bondage) (119 ratifications including Cambodia, Lao PDR, **Malaysia**, Philippines, **Singapore**)
- **CAT C. against Torture** (144 ratifications including Cambodia, Indonesia, and Philippines, )
- **CERD C. Elimination of Racial Discrimination** (173 ratifications including Cambodia, Indonesia, Lao PDR, Philippines, **Thailand**, Viet Nam)



## Human Rights Conventions

**All human rights conventions apply to migrant workers  
& no of ratifications high -> easy to apply**

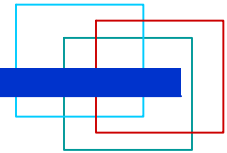
- **CEDAW C. Elimination of Discrimination Against Women** (185 ratifications including **Brunei Darussalam**, Cambodia, Indonesia, Lao PDR, **Malaysia**, Myanmar, Philippines, **Singapore**, **Thailand** and Viet Nam)
- **CRC C. Rights of the Child** (193 ratifications including **Brunei Darussalam**, Cambodia, Indonesia, Lao PDR, **Malaysia**, Myanmar, Philippines, **Singapore**, **Thailand** and Viet Nam)
- **Trafficking Protocol** (ratifications)--
- **Treaty bodies & Procedures** (sometimes signing optional protocol required)
- **Special Mechanisms**, such as **Rapporteurs** on rights of migrants, -migrant workers, -torture, -violence against women, -trafficking,



# ILO Multi-Lateral Framework on Labor Migration

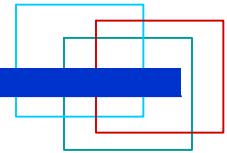
## guiding principles adopted by member states

<b>No.</b>	<b>Framework Areas</b>	<b>Summary of the Guidelines</b>
1	<b>Means of International Cooperation on Labor Migration</b>	<ul style="list-style-type: none"><li>• Developing international cooperation to promote managed migration for employment purposes</li><li>• entails information exchange, inter-governmental and tripartite dialogue at regional, international and multilateral levels, and the promotion of bilateral and multilateral agreements</li></ul>
2	<b>Effective Management of Labor Migration</b>	<ul style="list-style-type: none"><li>• Formulating and implementing coherent, comprehensive, consistent, and transparent policies to effectively manage labor migration, guided by international human rights and labor standards and to be gender sensitive, that is beneficial to both women and men in sending and destination countries</li><li>• Expanding avenues for regular labor migration, taking into account labor market needs, gender issues and demographic trends</li></ul>



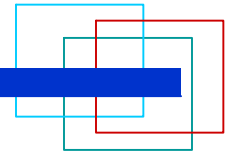
# ILO Multilateral Framework on Labor Migration

<b>No.</b>	<b>Framework Areas</b>	<b>Summary of the Guidelines</b>
3	Protection of Migrant Workers	<ul style="list-style-type: none"><li>• Ensuring that national laws and practice that promotes and protect human rights apply to ALL migrant workers, using international human rights and labor rights standards as a guide</li><li>• Providing information to migrant workers on their human and labor rights, and assisting them with defending their rights</li><li>• Providing effective enforcement mechanism for the protection of migrant workers rights, and providing training on human rights to all government and non-government officials involved in migration</li></ul>
4	Social integration and Inclusion	<ul style="list-style-type: none"><li>• Promotion of the economic, social and cultural integration and inclusion of migrant workers and their families in destination countries</li></ul>



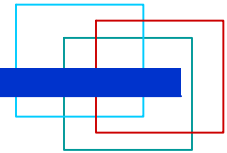
# ILO Multilateral Framework on Labor Migration

<b>No.</b>	<b>Framework Areas</b>	<b>Summary of the Guidelines</b>
5	Expanding Avenues for Regular Labour Migration, with a view to Labour Market Needs and Demographic Trends	<ul style="list-style-type: none"><li>• Regular labour market analysis</li><li>• Transparent policies for admission, employment and residence of migrant workers</li><li>• Policies and procedures which facilitate the movement of migrant workers, through bilateral, regional and multilateral agreements</li><li>• Temporary work schemes where required to fill specific sector shortages in destination countries</li></ul>
6 & 7	Social dialogue with tripartite partners and consultations with civil society and migrant associations	<ul style="list-style-type: none"><li>• national procedures for social dialogue &amp; civil society consultations, involvement and participation in migration policy-making, monitoring and implementation</li></ul>



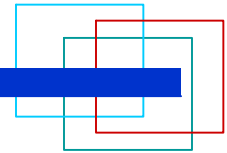
# ILO Multilateral Framework on Labor Migration

<b>No</b>	<b>Framework Areas</b>	<b>Summary of the Guidelines</b>
8	Protection of Migrant Workers	<ul style="list-style-type: none"><li>• Ensuring that national laws and practice that promotes and protect human rights apply to ALL migrant workers, using international human rights and labor rights standards as a guide</li><li>• Providing information to migrant workers on their human and labor rights, and assisting them with defending their rights</li><li>• Providing effective enforcement mechanism for the protection of migrant workers rights, and providing training on human rights to all government and non-government officials involved in migration</li><li>• guarantee right of association</li><li>• Protection from forced labour conditions and trafficking</li><li>• Ensure respect for minimum working age</li></ul>
9	Protection of migrant workers: Application of all labour and human rights without discrimination	<ul style="list-style-type: none"><li>• All human rights standards apply equally to migrant workers, and should be reflected in national laws and regulations</li><li>• Countries should ratify &amp; fully implement additional international instruments on migrants</li></ul>



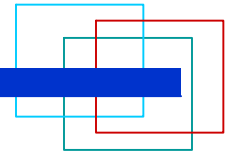
# ILO Multilateral Framework on Labor Migration

No.	Framework Areas	Summary of the Guidelines
10	<p>Protection of Migrant Workers:</p> <p>effective application and law enforcement of national laws and regulation</p>	<ul style="list-style-type: none"><li>• Ensuring that national laws and practice that promotes and protect human rights apply to ALL migrant workers, using international human rights and labor rights standards as a guide</li><li>• Providing information to migrant workers on their human and labor rights, and assisting them with defending their rights</li><li>• Providing effective enforcement mechanism for the protection of migrant workers rights, and providing training on human rights to all government and non-government officials involved in migration</li></ul>
11	<p>Protection of Migrant Workers:</p> <p>Preventing and eliminating abusive practices</p>	<ul style="list-style-type: none"><li>• prevention of forced labour, trafficking, exploitative recruitment, training, employment, debt bondage, retention of ID &amp; salary</li><li>• Effective complaints mechanism and access to justice, remedies and compensation, regardless of immigration status, and penalties against violators</li><li>• Awareness-raising on hazards of migration</li><li>• Assistance and protection to victims</li></ul>



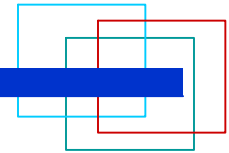
# ILO Multilateral Framework on Labor Migration

<b>No.</b>	<b>Framework Areas</b>	<b>Summary of the Guidelines</b>
12	<b>Migration Process: Orderly and transparent migration</b>	<ul style="list-style-type: none"><li>•Facilitate all stages of migration through information, training and assistance in language understandable to migrant worker</li><li>•Facilitate movement between country of origin and destination, to enable family ties and contact</li><li>•Simplify procedures and reduce fees and costs to migrant workers and employers</li><li>•Ensure skills accreditation</li></ul>
13	<b>License &amp; supervise recruitment and placement agencies</b>	<ul style="list-style-type: none"><li>• standardized system of licensing, after consultations</li><li>•Ensure understandable and enforceable contracts for migrant workers</li><li>•Ensure sanctions and enforcement deter unethical or illegal practices</li><li>•Ensure that fees of agencies are not borne directly or indirectly by migrant workers</li><li>•Ensure that agency bond deposit is paid when required to compensate workers who have suffered contractual non-performance</li><li>•Incentives for agencies that meet or exceed recognized performance criteria</li></ul>



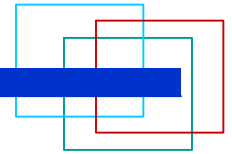
# ILO Multilateral Framework on Labor Migration

<b>No.</b>	<b>Framework Areas</b>	<b>Summary of the Guidelines</b>
14	Social integration and Inclusion	<ul style="list-style-type: none"><li>• Promotion of the economic, social and cultural integration and inclusion of migrant workers and their families in destination countries through:<ul style="list-style-type: none"><li>•Non-discriminatory legislation &amp; policies &amp; bodies</li><li>•Collection of aggregated data</li><li>•Vocational training and education for migrant workers</li><li>•Avenue for migrant workers to improve their legal status</li><li>•Representation and associations by migrant workers</li><li>•Language and cultural orientation</li><li>•Support for family and community support ties</li><li>•Awareness-raising on contribution of migrant workers</li></ul></li><li>•Birth of children of migrant workers in destination secures right to registration, nationality, health and educational support</li></ul>



# ILO Multilateral Framework on Labor Migration

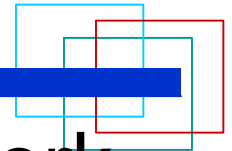
<b>No.</b>	<b>Framework Areas</b>	<b>Summary of the Guidelines</b>
15	Migration and Development	<ul style="list-style-type: none"><li>• Recognition and maximization of the contribution of labor migration to employment , economic growth and development for the benefit of both sending and destination countries</li><li>• Integrating and mainstreaming labor migration in employment, labor market and macro-and micro economic policy development</li><li>• Promoting labour migration’s role in regional integration</li><li>• Promoting incentives for enterprise development by migrant workers</li><li>• Facilitating remittances transfers and access to banking services, through competition and providing incentives to promote the productive investment of remittance, through tax incentives. Facilitate the transfer of capital skills and technology by migrant workers through incentives</li><li>• Adopting measures to mitigate the loss of workers with ethical skills, including by establishing guidelines for ethical recruitment</li><li>• Promoting linkages with trans-national communities and business initiatives</li></ul>



## ILO Framework for Action

Development of **Agenda on Decent Work for Domestic Workers** addresses discrimination against and exploitation of domestic workers as

- Women
- Informal sector & household workers
- Migrant workers

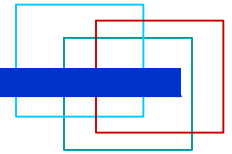


# Development of Agenda on Decent Work for Domestic Workers

Objectives: Decent work conditions in domestic work:

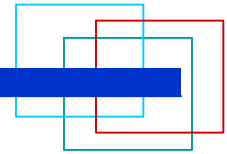
- rights
- productive jobs
- social protection
- representation
- elimination of exploitative practices

Under implementation in existing ILO projects globally on forced labour, migration, child labour, youth employment, informal sector, trade unions, entrepreneurship, education etc.



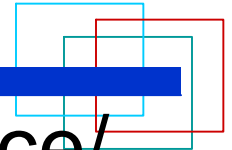
## Learning Lessons: Regionally

- Permanent regional forum on labour migration entailing sending and receiving countries
- Formal representation must include trade unions, migrant workers sector organizations and human rights institutions
- Adopt Decent Work minimum standards, and standard contract conditions



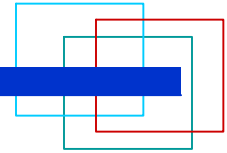
## Learning lessons: policy/ legislation

- Equal labour rights & legislative coverage for domestic workers, as well as in bilateral MOUs
- Take into consideration special circumstances of domestic work
- Ensure protection provisions address known forced labour practices & exploitation
- Specific job definition
- Living wage & overtime pay
- Max. working hours, no. days off, paid leave, min. nightly rest time
- Social protection
- Access to communication & information
- Inclusive socialization and consultation process



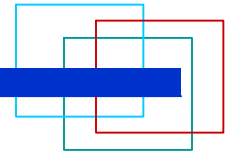
## Learning lessons: employment by choice/ skills-recognition

- Access to education, vocational training, entrepreneurship training, micro-credit -> alternative job opportunities
- Skills recognition, upgrading easy-access training and certification in female-dominated work sectors (growth sectors/ niche markets)
- Living wages, decent work conditions, social protection at home and abroad in female-dominated sectors



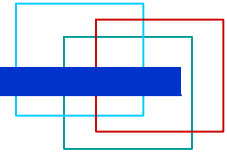
## Learning lessons: information & local services

- For migrant domestic workers: accurate, reliable information & services in media & communities
- Local information/ pre-employment orientation, pre-departure training by independent providers to migrants and their families (rights, contracts, assistance, networks, remittances, banking, savings, family dynamics, productive investment)
- Extension services, facilitation of credit, reintegration
- Localized counseling, assistance, help desks, hotlines
- Facilitation/ some provision/ overall responsibility by local government, encased in local legislative/ policy framework with assignment of responsibilities & budget allocations, link to local development strategy
- Organizing & building capacity in migrant workers' organizations & domestic workers' organizations



## Learning lessons: placement system

- Micro-credit -> reduce debt bondage
- Regulation/ licensing/ monitoring/
- One-stop, non-bureaucratic, fast, affordable, accurate, competitive, transparent procedure & fees -> reduce incentives for irregular migration & ID falsification, reduce role of brokers, reduce fees
- certification/reporting: independent units, national and local, data base
- Governance & enforcement issues
- Reduction of dependency – right to change employer
- Low cost insurance covering potential loss of levy for employer
- Effective access to justice (despite status)-> complaints mechanism & assistance/ counseling/ right of representation (visa & right to work during procedure)
- Effective & consistent freedom of association
- Labour rights (effect of immigration law, contract, legal interpretation, application of criminal & civil law)



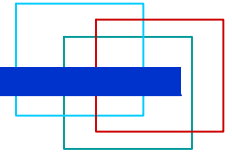
## Learning lessons: organizing

- Capacity-building of migrant workers & domestic workers organizations (outreach, assistance, info)
- Affiliation/ organization with trade unions in sending and destination countries: (info, services, remittances, insurance, transferable membership, campaigning, raise issues at national/ global level)
- Effective freedom of association
- Promote solidarity: migrant/national workers



## Promoting Migrant Workers' Employment Opportunities, While Ensuring their Protection: Responsibilities

- The primary responsibility of sending and receiving governments are protection of migrant workers from exploitation and abuse
- Sending and receiving government must ensure **safe, affordable migration in dignity and productive employment according to Decent Work standards** for migrant workers.
- Profits from migrant workers or foreign income from remittances does not alter this responsibility.
- Sending countries have a responsibility to ensure adequate education and employment opportunities in the country of origin.
- **Migration should be undertaken by choice & be safe & productive**
- – presently often a necessity, unsafe and ultimately unproductive



Thank you for your attention  
Your questions and responses are most welcome

Pls. check ILO web sites for resource documents:  
[www.ilo.org](http://www.ilo.org) (global policy documents, reports)  
[www.ilo.org/jakarta/publications](http://www.ilo.org/jakarta/publications) (resource documents,  
policy reviews on migrant workers in SEA)