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The Decent Work for Domestic Workers Convention, 2011 (No. 189) and Recommendation (No. 201), Introductory Note by Adelle Blackett

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INTRODUCTORY NOTE TO THE DECENT WORK FOR DOMESTIC WORKERS CONVENTION, 2011  
(NO. 189) AND RECOMMENDATION (NO. 201)  
BY ADELLE BLACKETT\*  
[June 16, 2011]  
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## Introduction

The International Labour Organization (ILO) adopted the Decent Work for Domestic Workers Convention, 2011 (No. 189) (the Domestic Workers Convention or Convention), as supplemented by an accompanying non-binding Recommendation (No. 201), on June 16, 2011. Both instruments were immediately hailed as historic. Two years later, on September 5, 2013, the Domestic Workers Convention entered into force, thus bringing the fifty-three to 100 million predominantly women workers—many of whom are migrants—squarely within the corpus of international labor law, with due attention paid to the specificity of their human rights claims.

## Background

The social sciences literature abounds and largely concurs: domestic workers are one of the most marginalized groups of workers in the contemporary global economy. Their employment status is laden with a history of enslavement and servitude; they embody the intersection of race, nationality, and gender. They have also resolutely claimed—through everyday resistance and collective social movement action—their right to be included in the corpus of labor law.<sup>1</sup>

The need for international standard setting on domestic work has been long acknowledged by the ILO, the UN specialized agency initially established by the Treaty of Versailles in 1919, and which preserves a vestige of the League of Nations: its tripartite (governments, employers, and workers) governance structure. The ILO adopted its first resolution on the conditions of employment of domestic workers in 1948.<sup>2</sup> In a second resolution in 1965, ILO Members recalled the “urgent need” for standards “compatible with the self-respect and human dignity which are essential to social justice” for domestic workers.<sup>3</sup> While the ILO and its supervisory mechanisms have long supported the position that domestic workers are included in international labor standards of general application, unless expressly excluded, there was a growing international consensus that the ILO needed to turn its normative attention specifically to the conditions of domestic workers in the global economy.

## Context

The Workers’ Group introduced a proposal to move forward with standards specific to domestic workers, which was discussed at the ILO’s Governing Body meeting in March 2008.<sup>4</sup> The proposal was adopted after receiving support from a key concerned government, South Africa.<sup>5</sup> Since removing the legal and political apparatus of apartheid, South Africa has been at the forefront of important, if imperfect,<sup>6</sup> regulatory innovation to bring immediate changes to domestic work, one of the economic and social vestiges of racialization. South Africa recognized that if black women domestic workers could not afford to leave domestic work as soon as apartheid ended, the working conditions themselves—and the norms surrounding them—would have to change. Regulating domestic work entails a non-standard approach due to the “boundarilessness” of time and the lack of control over space and mobility for the workers. Of particular importance are issues such as working conditions and social protection, accessible labor institutions, and a most critical freedom: for domestic workers to be able to refuse to “live in” their employers’ homes. This ILO decision was the first step toward the adoption of core principles of (international) labor law specifically for domestic work.

The Domestic Workers Convention and Recommendation are based on the preparatory work contained in the ILO’s Law and Practice Report.<sup>7</sup> Both instruments were negotiated over a two year period, during the 99<sup>th</sup> and 100<sup>th</sup> sessions of the International Labour Conference in June 2010 and June 2011 respectively. They were influenced by the strong tradition of social dialogue between the three main constituencies of the ILO, but with an important

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difference: domestic workers themselves were present in large number during negotiations, and navigated the existing constituencies to play an active role in ensuring the adoption of meaningful standards.<sup>8</sup>

The instruments build on the regulatory innovation that has already taken place in a number of countries worldwide. The Law and Practice Report underscored the extent to which ILO Members in both the global North and the global South—including a number of countries in Latin America—had embarked on important standard setting specifically focused on domestic workers. The standard setting exercise was cautiously to insist on full but specific inclusion of domestic workers into the corpus of international labor law. The ability to claim that domestic work was at once “work like any other” and “work like no other” was an important part of the justification for the inclusion of specific regulatory measures respecting domestic workers to ensure their substantive equality. This approach provided the justification for specific international labor standards, and in the process, reframed domestic work as a human rights issue. This human rights claim to inclusion in labor law facilitated the adoption of labor standards for domestic workers’ labor rights as a familiar idea, and also captured the transformative power of challenging existing inequitable workplace relations.

### **Provisions of the Domestic Workers Convention and Recommendation**

Once domestic workers’ conditions were framed in the light of international labor law, a number of common features of the informal work relationship were problematized. A good example concerns working time, which the Convention and Recommendation regulate in keeping with the principle of equal treatment.<sup>9</sup> The provisions on working hours and overtime pay, the calculation and payment of wages, and the provision of annual leave with pay all challenge the customary or implicit norms in which domestic workers’ constant availability is presumed.

Similarly, although the Convention is not framed as a migrant workers’ instrument, it necessarily addresses the issue of labor migration and does so in a number of different ways. These range from holding Members responsible for taking measures to ensure that domestic workers are entitled to keep their travel and identity documents in their possession to establishing standards to prevent abuse by employment or placement agencies. Both of these issues frequently arise in conditions of forced labor or human trafficking.<sup>10</sup> The new standards are in keeping with the goal of specific regulation, to treat all domestic workers—including migrant domestic workers—as workers.

The new standards also establish norms on a wide gamut of labor, occupational safety, and health and social security protections. The instruments address enforcement mechanisms—including labor inspection and effective and accessible complaints-based mechanisms. Of particular importance, the Convention and Recommendation both emphasize domestic workers’ right to exercise collective autonomy. Specific mechanisms to achieve this—including legislative extension—are identified in the instruments.<sup>11</sup> The attention to this issue is fitting, as social movements of domestic workers and workers’ organizations that have supported them both galvanized to obtain the Convention and Recommendation, and have been critical in carrying the momentum forward.

### **Significance**

Virtually immediately after adoption of the Convention and Recommendation, the International Trade Union Congress, supported by the International Domestic Workers’ Network, launched a “12 × 12 ratification campaign,” that is, a goal of twelve ratifications by 2012.<sup>12</sup> Their dream has only been slightly deferred: Uruguay and the Philippines provided the first two ratifications in 2012, permitting entry into force in 2013, and the twelfth ratification was received from Costa Rica on January 12, 2014. Moreover, the currently thirteen ratifiers span most major geographical regions, and encompass receiving and sending States.<sup>13</sup>

The significance of the Convention extends well beyond ratification. ILO constituents adopted a Resolution alongside the Convention and Recommendation concerning efforts to make decent work a reality for domestic workers worldwide. The new standards have dynamized the regulatory landscape on decent work for domestic workers. New instruments have been adopted on the international level to address the conditions of domestic workers.<sup>14</sup> On a domestic level, in monitoring the implementation of the Resolution, the ILO governing body noted other jurisdictions that have introduced reform measures on issues as broad as fair labor standards and social security mechanisms.<sup>15</sup>

International organizations and social movements seem determined to mobilize to push labor and human rights law to the full limits to promote decent work for domestic workers. However, the harrowing accounts suggesting systematic assault and murder of racialized, migrant domestic workers are a reminder that the standard setting on “decent work” also underscores its own limits.<sup>16</sup> While the Law and Practice Report stressed the need to root out the forced labor dimensions of domestic work, the proliferation of “care resource extraction”<sup>17</sup> is a global governance concern that requires us to think beyond a focus on (domestic) labor law, beyond human rights law, and at some level, beyond “law” to the broader questions of distributive justice in a global economic order.

In this regard, the transnational character of the new norms should not be understated. Article 26 of Recommendation No. 201, which calls for “enhanced international cooperation or assistance, or both, including support for social and economic development, poverty eradication programs, and universal education” should become one locus for concerted policy action through which to reimagine international solidarity.

## ENDNOTES

- 1 In addition to the works cited elsewhere in this note, a few of the many leading studies include: CYNTHIA ENLOE, *BANANAS, BEACHES AND BASES: MAKING FEMINIST SENSE OF INTERNATIONAL POLITICS* (1989); MARY ROMERO, *MAID IN THE U.S.A.* (1992); BONNIE THORNTON DILL, *ACROSS THE BOUNDARIES OF RACE AND CLASS: AN EXPLORATION OF WORK AND FAMILY AMONG BLACK FEMALE DOMESTIC SERVANTS* (1994); NOT ONE OF THE FAMILY: FOREIGN DOMESTIC WORKERS IN CANADA (Abigail B. Bakan & Daiva Stasiulis, eds., 1997); GRACE CHANG, *DISPOSABLE DOMESTICS: IMMIGRANT WOMEN WORKERS IN THE GLOBAL ECONOMY* (2000); PIERRETTE HONDAGNEU-SOTELO, *DOMÉSTICA: IMMIGRANT WORKERS CLEANING AND CARING IN THE SHADOWS OF AFFLUENCE* (2001); GLOBAL WOMEN: NANNIES, MAIDS AND SEX WORKERS IN THE NEW ECONOMY (Barbara Ehrenreich & Arlie Russell Hochschild, eds., 2002).
- 2 International Labour Organization [ILO], Resolution Concerning the Conditions of Employment of Domestic Workers, June 30, 1948. A listing of ILO resolutions is available at *Resolutions Adopted by the International Labour Conference (1919-2011)*, ILO, <http://www.ilo.org/public/english/bureau/leg/resolutions.htm> (last visited Apr. 25, 2014).
- 3 ILO, Resolution Concerning the Conditions of Employment of Domestic Workers Preamble, June 23, 1965, ILO, Official Bulletin (Geneva), Vol. XLVIII, No. 3, July 1965, Supplement I, 20-21. [http://www.ilo.org/public/english/support/lib/resource/subject/resolution\\_dw.pdf](http://www.ilo.org/public/english/support/lib/resource/subject/resolution_dw.pdf).
- 4 See International Labour Office, *Date, place and Agenda of the 99th Session (2010) of the International Labour Conference*, GB.301/2 (Feb. 7, 2008), [http://www.ilo.org/wcmsp5/groups/public/—ed\\_norm/—relconf/documents/meetingdocument/wcms\\_090361.pdf](http://www.ilo.org/wcmsp5/groups/public/—ed_norm/—relconf/documents/meetingdocument/wcms_090361.pdf).
- 5 See International Labour Office, *Minutes of the 301st Session of the Governing Body of the International Labour Office*, GB.301/PV (Mar. 20, 2008), [http://www.ilo.org/wcmsp5/groups/public/—ed\\_norm/—relconf/documents/meetingdocument/wcms\\_097016.pdf](http://www.ilo.org/wcmsp5/groups/public/—ed_norm/—relconf/documents/meetingdocument/wcms_097016.pdf).
- 6 For a discussion of the limits, see SHIREEN ALLY, *FROM SERVANTS TO WORKERS: SOUTH AFRICAN DOMESTIC WORKERS AND THE DEMOCRATIC STATE* (2009); see also EXPLOITED, UNDERVALUED – AND ESSENTIAL: DOMESTIC WORKERS AND THE REALISATION OF THEIR RIGHTS (Darcy du Toit, ed., 2013).
- 7 International Labour Conference, *Decent Work for Domestic Workers*, 99th Sess., Rep. IV(1) (2010), [http://www.ilo.org/wcmsp5/groups/public/—ed\\_norm/—relconf/documents/meetingdocument/wcms\\_104700.pdf](http://www.ilo.org/wcmsp5/groups/public/—ed_norm/—relconf/documents/meetingdocument/wcms_104700.pdf) [hereinafter Law and Practice Report].
- 8 See generally CELIA MATHER, “YES, WE DID IT!” HOW THE WORLDS DOMESTIC WORKERS WON THEIR INTERNATIONAL RIGHTS AND RECOGNITION (2013), available at [http://wiego.org/sites/wiego.org/files/resources/files/Mather\\_Yes%20we%20did%20it!\\_2013.pdf](http://wiego.org/sites/wiego.org/files/resources/files/Mather_Yes%20we%20did%20it!_2013.pdf).
- 9 See, e.g., ILO, Convention Concerning Decent Work for Domestic Workers art. 10, June 16, 2011, [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100\\_INSTRUMENT\\_ID:2551460:NO](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:2551460:NO).
- 10 Janie Chuang, *Rescuing Trafficking from Ideological Capture: Prostitution Reform and Anti-Trafficking Law and Policy*, 158 U. PA. L. REV. 1655 (2010).
- 11 See, e.g., Convention, *supra* note 9, art. 18.
- 12 See *Domestic Workers – 12 x 12*, INTERNATIONAL TRADE UNION CONFEDERATION, <http://www.ituc-csi.org/domestic-workers-12-by-12>.
- 13 A regularly updated list of ratifications is available on the ILO’s labour standards database at *Ratifications of C189 – Domestic Workers Convention, 2011 (No. 189)*, ILO, [http://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300\\_INSTRUMENT\\_ID:2551460](http://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:2551460) (last visited Apr. 25, 2014).
- 14 See, e.g., Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, General Cmt. No. 1 on Migrant Domestic Workers, UN Doc. CMW/C/GC/1 (Feb. 23, 2011), [http://www2.ohchr.org/english/bodies/cmw/cmw\\_migrant\\_domestic\\_workers.htm](http://www2.ohchr.org/english/bodies/cmw/cmw_migrant_domestic_workers.htm); Committee on the Elimination of Discrimination Against Women, General Recommendation No. 26 on Women Migrant Workers, UN Doc. CEDAW/C/2009/WP.1/R (Dec. 5, 2008), [http://www2.ohchr.org/english/bodies/cedaw/docs/GR\\_26\\_on\\_women\\_migrant\\_workers\\_en.pdf](http://www2.ohchr.org/english/bodies/cedaw/docs/GR_26_on_women_migrant_workers_en.pdf).

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- 15 See International Labour Office, *Follow up to the resolution concerning efforts to make decent work a reality for domestic workers worldwide: Progress report*, GB.319/POL/1 (Sept. 10, 2013), [http://www.ilo.org/wcmsp5/groups/public/—ed\\_norm/—relconf/documents/meetingdocument/wcms\\_222102.pdf](http://www.ilo.org/wcmsp5/groups/public/—ed_norm/—relconf/documents/meetingdocument/wcms_222102.pdf).
- 16 Hierarchies of race in domestic work and ensuing differential treatment require further study. See, e.g., Bina Fernandez, *Cheap and Disposable? The Impact of the Global Economic Crisis on the Migration of Ethiopian Women Domestic Workers to the Gulf* 18 GENDER & DEV. 249, 251 (2010); Adelle Blackett, *Domestic Workers at the Interface of Migration and Development: Action to Expand Good Practice* (Global Forum on Migration and Dev., Background Paper for Reg'1 Meeting, Sept. 21-22, 2011), [http://imumi.org/attachments/26\\_2.pdf](http://imumi.org/attachments/26_2.pdf).
- 17 See RHACEL SALAZAR PARRENAS, CHILDREN OF GLOBAL MIGRATION: TRANSNATIONAL FAMILIES AND GENDERED WOES 10 (2005).

DECENT WORK FOR DOMESTIC WORKERS CONVENTION, 2011 (NO. 189)  
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**C189 - DOMESTIC WORKERS CONVENTION, 2011 (NO. 189)**

*Convention concerning decent work for domestic workers (Entry into force: 05 Sep 2013)*

*Adoption: Geneva, 100th ILC session (16 Jun 2011) - Status: Up-to-date instrument (Technical Convention).*

**Preamble**

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

\* This text was reproduced and reformatted from the text available at the International Labour Organization website (visited March 31, 2014), [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C189](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C189) and [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:55:0::55:P55\\_TYPE,P55\\_LANG,P55\\_DOCUMENT,P55\\_NODE:REC,en,R201,/Document](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:55:0::55:P55_TYPE,P55_LANG,P55_DOCUMENT,P55_NODE:REC,en,R201,/Document).

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.

DECENT WORK FOR DOMESTIC WORKERS CONVENTION, 2011 (NO. 189) AND  
RECOMMENDATION (NO. 201)\*

[June 16, 2011]

+Cite as 53 ILM 254 (2014)+

**R201 - DOMESTIC WORKERS RECOMMENDATION, 2011 (NO. 201)**

*Recommendation concerning Decent Work for Domestic Workers*

*Adoption: Geneva, 100th ILC session (16 Jun 2011) - Status: Up-to-date instrument.*

**Preamble**

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.

\* This text was reproduced and reformatted from the text available at the International Labour Organization website (visited March 31, 2014), [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C189](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C189) and [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:55:0:::55:P55\\_TYPE,P55\\_LANG,P55\\_DOCUMENT,P55\\_NODE:REC,en,R201,/Document](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:55:0:::55:P55_TYPE,P55_LANG,P55_DOCUMENT,P55_NODE:REC,en,R201,/Document).

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.

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- (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 policymaking 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.