

Promoting and Protecting Women Migrant Workers' Labour and Human Rights through CEDAW and CMW

Side Event at CEDAW Session 64

21 July 2016, 1:15 – 2:45 p.m. Palais des Nations, Room XXIV, Geneva

1. Migration is mostly labour migration. Recent ILO estimates show that there are 150 million migrant workers. 67 million women and 83 million men. Around 73% of all migrants of working age are migrant workers. Many of them have left their home country in search of better jobs in higher income countries (75% of all migrant workers, 80% of MDWs). Increasing inequalities between countries and inside countries are among other driving forces of migration.
2. This is a global phenomenon, which should be addressed as such. Today all countries are experiencing this phenomenon, as countries of origin, transit or destination and the governance of international labour migration has become increasingly challenging. Because this is a global phenomenon, international standards and multilateral mechanisms are crucial.
3. The role of international standards to protect human and labour rights of migrant workers and the ILO, at its inception in 1919 already concerned with the “interests of workers employed in countries other than their own”. The ILO has pioneered the development of specific labour standards for the governance of labour migration and protection of migrant workers.
4. I will highlight some provisions of some relevant ILO Conventions to analyse the situation of MDWs. 11.5 million workers, the vast majority women, who are suffering the highest deficits of decent work.
5. Domestic workers and migrants are covered by the ILO's international labour standards, unless otherwise specified. They

lay out basic principles, articulate the rights and duties of employers and workers, establish policy objectives and provide guidance on means and procedures to be employed. They are designed to promote decent work for workers of all nationalities, irrespective of migration status.

6. Convention on Migration for Employment No. 97 (1949). (49 ratifications) protects regular migrant workers from discrimination and exploitation, ensuring equality of treatment between regular migrant workers and national workers with respect to hours of work, rest period, holidays and freedom of association.
7. Convention on migrant workers N.143 (1975) (23 ratifications) establish supplementary provisions, entitling migrant workers who are in an irregular situation to equality of treatment in working conditions and in respect of rights arising out of their past employment. It provides for both equality of treatment and equality of opportunities for legal migrant workers and members of their families. Challenges for MDWs:
 - a. Temporary migration schemes in Asia and Middle East, only live-in, increasing their isolation and dependence of employer.
 - b. In the Arab states MDWs are hired under a sponsorship system “kafala” that ties the legal residence of the worker to a private citizen, the employer. The worker can’t leave the job without the permission of the employer, neither can change job. The employer, on the other hand, can cancel the worker residency visa by finishing the sponsorship. Ran away.
 - c. Freedom of association is not granted and MDWs have no rights to organize and create their own trade unions. This

is why it is so important the experience of the DWs trade Union in Lebanon, the first in the Arab region.

8. Convention on domestic work N.189 (2011) domestic workers are workers and sets minimum standards for the rights and protection of DWs (working hours, rest days, minimum wage, social security, the rights to organize). It promotes decent hiring, working, and living conditions for all domestic workers, including migrants. Taking into account the specific challenges that migrant domestic workers face, the Convention advocates the use of written contracts that are enforceable in the host country, the establishment by Members of clear conditions under which migrant domestic workers are entitled to repatriation, and the institution of safeguards against the abusive practices of private employment agencies operating across borders. Moreover, Convention No. 189 urges sending and receiving countries to cooperate with a view to the effective implementation of the Convention's provisions. (22 ratifications ratifications).
 - a. DWs are excluded from national labour law in countries of destination and even though standard employment contract have been established, in practice abuses are common. A survey conducted by the ILO in Lebanon:.
 - i. Confiscation of passport and other identity documents (26% don't do it) 74 yes.
 - ii. 74% of workers have no copy of contract
 - iii. 57% worked 7 days a week (only 24% had full day of rest)
 - iv. Confinement. (35% of workers are always locked within their first year of employment)
 - b. DWs are excluded from national labour law in countries of origin operate as an important push factor.

9. Convention on Private employment agencies N.181 (1997) (32 ratifications). Among the provisions, it establish that no fee will be charged to workers.
 - a. Private employment agencies are operating all over the world and were responsible of recruitment and placement in one way or other of 60 million people in 2013. There are 140,000 registered PrEAs all over the world. In spite of legal provisions in many countries that prohibit charging fees to the workers, most MDWs have to pay fees to go to Middle East and Asia. They take loans with high interest rates and the need to pay these debts is one of the reasons they remain in exploitative employment conditions.
 - b. High fees are charged to employers, lead to salary deductions of the MDW (event though in many countries illegal, it is a common practice)

10. Convention on discrimination in employment and occupation, 111 (1958) with 173 ratifications
 - a. Restrictions to mobility in countries of origin. Aiming at protecting women, most Asian countries and some African countries have set a minimum age to migrate as DW, a few have established a ban to women with small children. And many countries have established total deployment ban for women to migrate as DW (to certain countries) as a response to abusive reported situations.

11. Conclusion: ILS provide a very relevant framework for the full enjoyment of human and labour rights. An increased emphasis has been emphasized on the linkage between

migration and development and migration features in the SDG, as well as gender equality and decent work.