



# International Labor Rights Forum

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## **Minimum standards for child labor provisions are essential for the ILO Convention on Decent Work for Domestic Workers to protect child workers**

Domestic work is, and historically has been, invisible and undervalued. Domestic workers are informal workers who generally are unprotected by national labor laws, which results in their vulnerability to unfair and often abusive treatment. The nature of domestic work, which takes place in a private household behind closed doors, where workers are isolated, with little access to support networks, inherently increases the potential for labor exploitation and abuse. Child and migrant domestic workers are particularly vulnerable to abuse and labor exploitation because they are separated from their families, and the lack of health, safety, and overtime regulations governing their work. Child migrant domestic workers' exposure to potential abuse is two fold when they are in unfamiliar countries or cities, with inadequate resources to escape from abusive environments. The ILO should adopt a Convention concerning decent work for domestic workers to encourage the protection of domestic workers, children in particular, in national legislation schemes.

The ILO Conventions No. 182, concerning the prohibition and immediate action for the elimination of the worst forms of child labour, and No. 138, concerning minimum age for admission to employment, should provide direction on the standards that must be minimally set to eradicate child domestic labor. The proposed ILO Convention, concerning decent work for domestic workers must align itself with the protections outlined in the above-mentioned Conventions, especially No. 182 that has been widely ratified by 171 countries, because a large number of domestic workers worldwide are under 18 years of age. Given the fact that domestic work is performed in private households, out of sight of the formal economy, it is impossible to have accurate statistics on the number of child domestic workers. However, according to the ILO, more girls under 16 are employed in domestic work than any other category of child labor.<sup>1</sup> Available statistics based on local research and surveys provide a glimpse of the shocking phenomenon worldwide. Recent reports convey 175,000 children under 18 are employed in domestic work in Central America, more than 688,000 in Indonesia alone, 53,942 under the age of 15 in South Africa, and 38,000 children between 5 and 7 in Guatemala.<sup>2</sup>

Below is a brief overview of the labor conditions that make domestic work particularly dangerous for child workers and recommendations for minimum standards to be addressed in by an ILO Convention on decent work for domestic workers (hereinafter the "Convention").

### **Children are particularly susceptible to exploitation in domestic work, and a minimum age must be clearly established to protect the most vulnerable**

The Convention should emphasize that no child under the age of 15 should engage in domestic work, because the nature of such work is likely to harm their health, safety, and development. Employers should be prohibited from hiring children as domestic workers until they have reached the age of completion of compulsory schooling, and at a minimum have reached the age of 15, which is the minimum age established by Article 2(3) of ILO Convention 138 concerning Minimum Age for Admission to

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<sup>1</sup> ILO International Programme on the Elimination of Child Labour, "Domestic Labour: Global Facts and Figures in Brief". <http://www.ilo.org/ipec/areas/Childdomesticlabour/lang--en/index.htm>

<sup>2</sup> Ibid.

Employment, adopted in 1973.<sup>3</sup> The Convention on decent work for domestic workers should stipulate a minimum age of 15 as a requirement for domestic work, and further afford children aged 15-18 enhanced protection from labor rights abuses. The Convention should urge member states to take immediate steps to increase the minimum employment age in their respective national legislation to 15, if they haven't done so already. As established by Convention No. 182, the proposed Convention must establish that the term "child" applies to all persons under the age of 18.<sup>4</sup>

The Convention should obligate member states to establish effective procedures to remove child domestic workers underneath the minimum age stipulated by the Convention. The interests of the child removed from the employment situation should be prioritized in the decision about their placement after removal, and should aim to reunite the child with his or her family and enroll the child in school. Member states should be required to mandate and enforce sanctions against any adult that employs children under the minimum age for employment, or who violates other basic labor conditions essential to domestic work.

### **Child domestic workers must be protected from unduly long hours that are routine in domestic work**

When child domestic workers reside in the homes of their employers, the potential for abuse and exploitation is increased. Practices that violate overtime requirements and the child's need for respite include: unduly long work hours, where the child domestic laborers can be on call 24 hours a day, no day of rest, and situations where workers are obligated to respond to constant employer demands during their free time. Maximum hours of work, and prohibitions on work during early and late hours, before 7:00 a.m. and after 9:00 p.m., for child domestic workers should be explicitly established in the Convention in order to allow adequate time for education, training, homework, and free time. These standards should be equivalent to the standards established for child workers between the ages of 15-18 in other ILO Conventions. The special protections for child domestic workers that live at their employers' household are crucial to prevent labor exploitation; these vital provisions must be included in the Convention text, rather than in the accompanying non-binding recommendation.

### **Domestic work violates children's right to education when they are prohibited from attending school**

The Convention should clearly recognize and reiterate the promotion of children's right to education by mandating member states ensure that child domestic workers have opportunities to continue their education through access to basic schooling, training, and other educational programs. The Convention should establish that member states have an obligation to make child domestic workers and their employers aware of educational opportunities, including flexible school curricula which can be balanced with domestic work duties. The Convention should also urge member states to remove barriers to education that are often contributing factors for entry into child domestic work, such as school fees, heavy workloads, and inflexible class schedules. The Convention must establish standards in agreement with article 7(2) of Convention No. 182, and require member states to take into account the importance of education in eliminating child labor and, ensure access to free basic education, and wherever possible and appropriate, vocational training for all children removed from the domestic work situations.

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<sup>3</sup> International Labor Organization, Convention concerning Minimum Age for Admission to Employment, adopted in 1973. <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C138>.

<sup>4</sup> International Labor Organization, Convention concerning the prohibition and immediate action for the elimination of the worst forms of child labour, adopted in 1999. <http://www.ilo.org/public/english/standards/relm/ilc/ilc87/com-chic.htm>

### **Occupational health and safety risks associated with domestic work are especially dangerous for children**

The Convention should recognize that certain types of domestic work are particularly hazardous, and must be prohibited for child domestic workers. The accompanying recommendation to the convention should provide greater explanation regarding the hazards present in domestic work, including, but not limited to, the use of pesticides, solvents, or cleaning agents with chemical compositions, high noise levels, musculoskeletal problems from heavy lifting and repetitive work, isolation, lack of supervision, lack of sleep and adequate rest, and employment of sharp utensils, heating elements, and electrical machinery to complete work. The Recommendation should incorporate ILO research, including examples from the 2007 ILO publication, “Hazardous child domestic work: A briefing sheet.”<sup>5</sup>

### **Abuse and harassment by employers in domestic work situations significantly harm the child worker’s development**

The Convention should ensure domestic workers are protected against all forms of abuse, including physical, verbal, sexual, and mental abuse and harassment. The Convention should require member states to incorporate explicit prohibitions of these forms of abuse and harassment under national legislation, including unlawful confinement. Furthermore, the Convention should require member states to establish accessible complaints mechanisms for domestic workers to report such abuse, including confidential, toll free 24 hour hotlines to receive reports of abuse against domestic workers, with interpreters in relevant languages available.

### **Labor monitoring systems and formalization of domestic work could lead to better enforcement of labor laws and protection of child domestic workers**

The Convention should mandate that member states analyze the current national legal measures in place, and their impact, in order to bring any current legislation up to the minimum standards established in the Convention. The Convention should also require domestic worker employment relationships to be formal employment, rather than informal, with employment contracts to cover remuneration, working hours, and regulations regarding employees who live in the residence of their employers. The Convention should encourage member states to implement collective insurance mechanisms to this class of workers that has historically been excluded. Domestic workers must be afforded labor protections mandated in other industries, such as occupational safety and health protection, and pregnancy and maternity benefits. The Convention should compel member states to establish effective and accessible complaints mechanisms and procedures to ensure redress for domestic workers’ rights violations, including violations of migrant domestic workers’ rights.

The Convention should require member states to progressively advance legislation and institutional frameworks to allow for local registration of domestic workers to ensure their visibility as employees under national legislation, and to facilitate labor monitoring in the field of domestic work. In accordance with Article 7(3) of Convention No. 182, the proposed convention should require each member state to designate a competent authority responsible for the implementation of the child labor provisions of the Convention. Child protection systems should be involved in the monitoring, and they should guarantee the well being of children domestic workers through household visits and private dialogue with both child workers and employers. The monitoring systems should include prompt response procedure, including investigation and prosecution in cases physical or sexual violence, unlawful confinement, or other abuses against domestic workers. Awareness needs to be raised of the issues that affect domestic workers in all

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<sup>5</sup> International Labor Organization, “Hazardous Child Domestic Work: A Briefing Sheet”, published 2007. <http://www.ilo.org/ipecinfo/product/viewProduct.do?productId=4044>

levels of monitoring, police investigation, and judicial enforcement. Police officers should be trained on how to respond to domestic workers complaints adequately, how to collect testimony and evidence, without endangering the life of the child, and with an understanding of the need for appropriate referrals for assistance. The Convention should require member states to progressively establish removal and recovery programs for child domestic workers that have been removed from the residences of their employers, including temporary accommodation, psychological and physical health care, legal assistance, and access to educational resources.

**Domestic work must be decent work, where children are protected from the range of hazards and exploitative labor conditions that are commonplace in the field**

A binding ILO Convention concerning decent work for domestic workers would prepare the political landscape for changes to be made to improve domestic workers' lives. The recognition that domestic work should be recognized as employment under national labor legislation, in formal contracts that stipulate decent work conditions and remuneration, with effective monitoring, complaint and enforcement mechanisms for labor rights violations is imperative to protecting isolated domestic workers. The ILO Convention should seize the opportunity to set international standards for child domestic work, in order to greatly improve child domestic worker's living conditions, access to education, and development.