

24 September 2009

HON. JUAN SOMAVIA
International Labor Office
4, route des Morillons
CH-1211 Geneve 22
Switzerland

Dear **Director-General Somavia**:

I am pleased to submit the Philippine Government's reply to the ILO Questionnaire on Decent Work for Domestic Workers.

Copies of the same were communicated to the employers' and workers' organizations in compliance with Article 23, paragraph 2 of the ILO Constitution.

Likewise, the Employers Confederation of the Philippines (ECOP), furnished the Department and the ILO Manila Office of their official response on the said questionnaire. Attached is a copy of their reply for your perusal.

Best regards.

Very truly yours,


MARIANITO D. ROQUE
Secretary

 Dept. of Labor & Employment
Office of the Secretary

092866

ILO QUESTIONNAIRE DECENT WORK FOR DOMESTIC WORKERS

At its 301st Session (March 2008), the Governing Body decided to put on the agenda of the 99th Session (2010) of the International Labour Conference an item on decent work for domestic workers for a double discussion leading to the possible adoption of a Convention supplemented by a Recommendation.

The purpose of the questionnaire is to request the views of member States on the scope and content of the proposed instruments, after consultation with the most representative organizations of employers and workers. Replies received should enable the Office to prepare a report for the Conference.

I. Form of the international instrument or instruments

1. Should the International Labour Conference adopt an instrument or instruments concerning decent work for domestic workers?

Reply: YES

2. If so, should the instrument or instruments take the form of:

- | | |
|--|-------------------------------------|
| (a) A Convention | <input checked="" type="checkbox"/> |
| (b) A Recommendation | <input type="checkbox"/> |
| (c) A Convention supplemented by a Recommendation or | <input type="checkbox"/> |
| (d) A Convention comprising binding and non-binding provisions | <input type="checkbox"/> |

II. Preamble

3. Should the preamble of the instrument or instruments recall that international labour Conventions and Recommendations apply to all workers, including domestic workers, unless otherwise provided?

Reply: YES

4. Should the preamble of the instrument or instruments refer to the special conditions in which domestic work is carried out that make it desirable to supplement the general standards by standards specific to domestic workers, to enable them to enjoy their rights fully?

Reply: YES

5. Should other considerations be included in the preamble? Please specify.

Reply: YES

Comment:

The Government of the Republic of the Philippines (GRP) agrees that the preamble should state that:

- **The current international situation in some receiving states excludes household workers from the mantle of protection provided by their labour laws.**
- **Partnership must be encouraged between domestic workers and their employers, putting primarily the protection of domestic workers, and not necessarily forgetting the benefits of employers.**
- **Decent Work should be incorporated as Framework since all these efforts are geared to ensure that domestic workers benefit effectively from the promise of decent and productive work.**

III. Definitions

6. For the purposes of the instrument or instruments,

- (a) Should the term "domestic work" mean work performed in and for a household and include housekeeping, child care and other personal care?

Comment:

The Government of the Republic of the Philippines (GRP) recommends using the term *Domestic Work* as compared to other terms such as helper etc., to connote that they are workers and they should be afforded fundamental rights. Furthermore, the GRP defines *Domestic work* as work performed in a household and for a household. The GRP stresses that the term personal care be eliminated as part of tasks ascribed as domestic work.

- (b) Should the term "domestic worker" mean any person who undertakes domestic work, whether on a full-time or part-time basis, for remuneration?

Reply: YES

- (c) Should the term "standby" mean periods during which a domestic worker is not free to dispose of time as the worker pleases?

Reply: YES

(d) Should the term “employer” include intermediaries?

Comment:

The Government of the Republic of the Philippines has clear distinction on the definition of *employer* for migrant domestic workers and local domestic workers.

For migrant domestic workers, employer refers to both the principal employer and foreign placement agency. They are both held solidarily liable to violations committed against the Filipino migrant domestic helper. Intermediaries refer to local placement agencies and are also considered solidarily liable but are not considered as employer.

For local domestic workers, employer refers to any person who engages the services of the domestic workers for household work.

(e) Should any other terms be defined by the instrument or instruments? If yes, please provide particulars.

Reply: YES

The Government of the Republic of the Philippines expresses that there is a need to define the term household and proposes to adopt the following definition:

***Household:* an aggregate of persons generally but not necessarily bound by ties of kinship, who sleep in the same dwelling unit and have common arrangements for the preparation and consumption of food.**

IV. Scope

7. Should the instrument or instruments apply to all domestic workers?

Reply: YES

8. Should the instrument or instruments provide for the possible exclusion of limited categories of domestic workers and, if so, under what circumstances? Please specify.

V. Content of a Convention

A. Fundamental principles and rights

9. Should the Convention provide that each Member should take measures to ensure the enjoyment by domestic workers of the fundamental principles and rights at work, namely:

(a) Freedom of association and the effective recognition of the right to collective bargaining?

Reply: YES

(b) The elimination of all forms of forced and compulsory labour?

Reply: YES

(c) The effective abolition of child labour?

Reply: YES

(d) The elimination of discrimination in respect of employment and occupation?

Reply: YES

10. Should the Convention stipulate a minimum age for admission to domestic work?

Reply: YES

Comment:

The GRP recommends to uphold employable age under the national laws.

11. Should the Convention provide the minimum age of employment for migrant domestic workers should be 18?

Reply: YES

Comment:

The GRP recommends that for migrant workers, there may be a need to provide a higher minimum age due to the vulnerability of this

occupation which requires the household worker to be physically, emotionally mature to handle the job.

B. Working and living conditions and social security.

12. Should the convention provide that each member should take measures to ensure that domestic workers, like all wage earners, have:

a. Fair terms of employment as well as decent working conditions and, where applicable, living conditions;

Reply: YES

b. A safe and secure workplace;

Reply: YES

c. Social security, including maternity protection?

Reply: YES

13. Should the convention provide that employers should inform domestic workers of their terms and conditions of employment, in particular:

a. The name and address of the employer:

Reply: YES

b. The type of work to be performed;

Reply: YES

c. The rate of remuneration, method of calculation and pay interval;

Reply: YES

d. The normal hours of work;

Reply: YES

14. Should the convention provide that each member should take measures to ensure that domestic workers are protected against all forms of abuse and harassment, including physical, verbal, sexual and mental abuse and harassment?

Reply: YES

15. Should the convention provide that each member should ensure that domestic workers enjoy minimum wage coverage where such coverage exists?

Reply: YES

16. Should the convention provide that all domestic workers should be paid for their work at no greater than monthly intervals?

Reply: YES

17. Should the convention allow partial payment of wages in kind? If so, please specify any circumstances and limits, in particular whether a domestic worker can refuse such in kind payments.

Reply: NO

18. Should the convention provide that each member should ensure that domestic workers are not required by national law or regulation to reside in the home of the employer?

Reply: YES

19. Should the convention provide that, when accommodation and food are provided by the employer, the accommodation should be safe and decent, and should respect the worker's privacy, and the meals should be of good quality and sufficient quantity?

Reply: YES

20. Should the convention provide that each member should ensure that domestic workers have normal hours of work, overtime compensation, period of daily and weekly rest, and annual leave as determined by national laws and regulation, and which are not less favourable than those applicable to other wage earners?

Reply: YES

21. Should the convention provide that each member should ensure that domestic workers are not bound to remain in the household during the period of daily or weekly rest?

Reply: YES

22. Should the Convention provide that periods of standby should be regarded as hours of work to the extent determined by national laws and regulations, collective agreements or any other means or any other means consistent with national practice?

Reply: YES

23. Should the Convention provide that each Member should take measures to ensure that domestic workers enjoy at least 24 consecutive hours of rest in every seven-day period?

Reply: YES

24. Should the Convention provide that each Member should take measures to ensure equality of treatment between domestic workers and other wage earners in respect of occupational safety and health?

Reply: YES

Should the Convention provide that such measures may be applied progressively? Please elaborate.

25. Should the Convention provide that each Member should take measures to ensure the application of social security schemes, including maternity protection, to domestic workers? Should the Convention provide that certain measures may be applied progressively? Please elaborate.

Reply: YES

C. Employment Agencies

25. Should the Convention provide that each Member should take measures to ensure that domestic workers recruited or placed by employment agencies, particularly migrant domestic worker, are effectively protected against abusive practices?

Reply: YES

D. Migrant domestic Workers

26. Should the Convention provide that each Member should take measures to ensure that domestic workers recruited or placed by employment agencies, particularly migrant domestic workers, are effectively protected against abusive practices?

Reply: YES

27. Should the Convention provide that migrant domestic workers should be entitled to repatriation at no cost on expiry or termination of the employment contract?

Reply: YES

28. Should the Convention provide that each Member should prohibit employers from keeping in their possession domestic workers' travel and identity documents?

Reply: YES

29. Should the Convention provide that Members should cooperate with each other to ensure that migrant domestic workers enjoy benefits comparable with those of nationals?

Reply: YES

E. Implementation

30. Should the Convention provide that each Member should ensure that domestic workers have easy access to fair and effective dispute settlement procedures?

Reply: YES

31. Should the Convention provide that each Member should ensure that arrangements are in place to ensure compliance with national laws and regulations applicable to domestic workers, such as labour inspection services, with due regards to privacy?

Reply: YES

Comment:

We need to mention that the adoption of such arrangement must be in progressive manner and in accordance with the country's political and development situation. The Philippines for instance has a policy of ensuring the privacy of homes, as provided in the Constitution, which will make the labour inspection difficult. In addition, the limited number of labour inspectors that may be deployed to all the households may also pose challenges especially for developing countries like the Philippines.

For the migrant workers, there is already existing policy for Philippine Overseas Labour Office (POLO) to conduct inspection or site visits to further ensure that appropriate working conditions are provided to Filipino overseas workers.

32. Should the Convention provide that its provisions should be applied by laws, regulations, collective agreements or other measures consistent with national practice, by extending existing measures to cover domestic workers, adapting them, where appropriate, and developing specific measures for domestic workers?

Reply: YES

33. Should the Convention provide, that, in implementing its provisions, each Member should consult the employers' and workers' organizations concerned?

Reply: YES

VI. Content of a Recommendation

Comment:

The Philippine government supports the adoption of a Convention on Domestic Work.