

SPECIFIC GROUPS AND INDIVIDUALS

Written statement jointly submitted by **Global Rights** and the **American Civil Liberties Union**, non-governmental organizations in special consultative status

Ending the Exploitation of Migrant Domestic Workers Employed by U.N. Diplomats and Staff

Global Rights and the American Civil Liberties Union, in conjunction with the International Women's Human Rights Clinic of the City University of New York School of Law, submit the following written statement with information provided by Andolan: Organizing South Asian Workers.

1. Migrant domestic workers employed by United Nations diplomats and staff, including the representatives of various country missions to the UN, are too often subjected to fundamental human rights violations. Despite the protections guaranteed to migrant domestic workers under international human rights and labor laws, including those drafted and promoted by the UN Commission on Human Rights (UNCHR), the United Nations and the country missions to this body have failed to ensure that these workers are treated with dignity and respect.
2. The international community has recognized the protection of migrant domestic workers and the regulation of their conditions of employment as an urgent human rights issue. The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, which entered into force in July of 2003, is a manifestation of the importance of this issue. Typical human rights abuses range from denials of basic employment rights to which workers are entitled under the domestic law of the country in which they work (such as payment of the minimum wage and overtime) to extreme forms of exploitation in the form of sexual assault, trafficking and forced labor. In her report to the UNCHR in 2004, the Special Rapporteur on Migrant Workers called attention to the vulnerability of migrant domestic workers and urged the international community to act to protect the rights of these workers. She also cited specific cases involving women working for diplomatic staff or staff in international organizations.
3. It is therefore deplorable that, one year later, many migrant domestic workers employed by the United Nations' own staff and the staff of country missions to

the UN are still suffering exploitation and being denied their human rights. There are numerous reports from advocates, service providers and community organizations documenting the various forms of exploitation and abuse faced by migrant domestic workers working for UN staff and diplomats. For example, Andolan, an organization that organizes and advocates on behalf of low-wage, immigrant South Asian workers in the New York City area, has been working on a Campaign Against Diplomatic Immunity since 1998. The campaign, which has included demonstrations and protests against diplomat employers, contributed valuable information to a Human Rights Watch report, released in 2001, on the abuse of domestic workers.

In the United States, abusive employment conditions have included:

- Working from fourteen to nineteen hours per day, as many as seven days per week;
 - Receiving as little as fifty-eight cents (or US\$.58) per hour or as little as US\$150 per month when the minimum wage in the U.S. is \$5.15 per hour;
 - Being refused vacation or sick leave;
 - The withholding of the worker's travel documents by her employer;
 - Housing conditions that include sleeping in the dining room or on the floor of a child's bedroom;
 - Being locked in a room when guests visit the employer's home;
 - Being refused medical treatment when ill;
 - Being denied the right to leave the home;
 - Not being allowed to talk to others or to make phone calls;
 - Not being allowed to eat the same food as the family;
 - Being forced to care for the children of the employer's relatives in addition to caring for the employer's children;
 - Being forced to work extra hours without compensation;
 - Being threatened with deportation to the worker's home country when complaining to the employer about working conditions;
 - Being verbally and physically abused; and
 - Being sexually abused and harassed.
4. All migrant domestic workers are extremely vulnerable to exploitation for a variety of reasons. First, they are often unfamiliar with the rights to which they are entitled under international law and the domestic law of the country in which they work. They are often also extremely isolated due to long work hours and unfamiliarity with the local language and culture and are afraid to leave exploitative employment situations because their immigration status is dependent upon their relationship with a particular employer. Migrant domestic workers employed by the staff of international institutions or by diplomatic staff often face greater exploitation because their employers can claim immunity from civil and criminal jurisdiction because of their diplomatic status. These migrant domestic workers have no means to enforce their rights or to achieve redress in the country

in which they work. In some cases, their employers have been transferred to a position in a different country, in order to avoid charges or penalty.

5. Some international organizations and countries have attempted to adopt policies and model employment agreements for their international staff that would prevent abuse of their migrant domestic workers. However, advocates continue to discover a variety of abuses that circumvent the systems that have been put into place. Some examples of these abuses are:

- The employer executes a contract at the country of origin that complies with the institutional policy but then changes the terms of the contract upon arrival in the destination country.
- The employer opens a bank account for an employee and deposits the worker's wages but then keeps sole control over the bank card and uses the money in the account for his or her own purposes.
- The employer compels the domestic worker to sign fraudulent receipts for payment of a salary that is significantly higher than what the worker actually receives.
- The employer falsely tells an employee that her salary is being deposited in a bank account in her country of origin when in fact no money (or far less money) is actually being deposited.
- The employer brings the employee on a valid visa but arranges for a third-party to actually employ the domestic worker.
- The employer deducts money from the worker's wages to pay for employee clothes, food, and medicine.
- The employer falsely promises to sponsor the employee's family members to come to the United States after the employee leaves her native land.
- The worker does not directly receive any wages and does not have any pocket money, thus rendering it more difficult to escape.

Such abuses can only be avoided by instituting "watchdog mechanisms" or supervisory systems that allow for close monitoring of the employment conditions of the domestic worker, educating domestic workers as to their rights and giving workers access to communities and services that will ensure that those rights are respected.

6. We therefore make the following recommendations:

- We urge the UNCHR to address the issue of migrant domestic workers employed by UN diplomats and staff in its resolution on migrant workers and call for appropriate measures to be adopted in order to protect the rights of these workers.
- We support the recommendation in paragraph 90 of the Special Rapporteur's report to the UNCHR in 2004 (E/CN.4/2004/76), stating that all "international organizations, embassies and consulates should adopt

codes of conduct on the recruitment of migrant domestic workers and require their staff to abide by the code, taking disciplinary action in the event of violations.”

- We support the Special Rapporteur’s call for written contracts for migrant domestic workers, “giving particulars of the employer and employee and details of the employee’s monthly wages, duties and working hours, free time and vacations, board, lodging, medical insurance, transport to the country of destination, conditions for terminating the contract, complaint procedures, and provision for the eventuality of the employee’s death or illness” (paragraph 80 of E/CN.4/2004/76). We also call upon international organizations, embassies and consulates to ensure that the workers receive and sign a copy of the contract written in their native language.
- We support the recommendation in paragraph 77 of the Special Rapporteur’s report (E/CN.4/2004/76) that “States which admit migrant domestic workers under a sponsorship and special visa system [should] review their legislation and ensure that workers’ immigration status does not depend directly on the employment relationship with a given employer and that, under certain circumstances and conditions, workers may change employers.”
- We urge all member states to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.