



# Swept Under the Rug

Abuses against Domestic Workers Around the World

HUMAN  
RIGHTS  
WATCH



# **Swept Under the Rug**

## **Abuses against Domestic Workers Around the World**

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## I. Introduction

*As a domestic worker, you have no control over your life. No one respects you. You have no rights. This is the lowest kind of work.*

—Hasana, child domestic worker who began employment at age twelve, Yogyakarta, Indonesia, December 4, 2004

*I worked [there] for three months. Sometimes I did not get any food. I woke up at 4:30 a.m. and slept at 10 p.m....[My employer] shouted at me, "You are a poor person. You have to know your position, you are here to work." I was not allowed to go out of the house. I had not seen my family since I left home. I was not paid any salary.... [My employer] hit me when she was angry. Three times she hit. Once she slapped my face and then kicked me above my right hip. It hurt and swelled up. I did not go to the doctor. She laughed when I asked that I wanted to see the doctor.*

—Asma, child domestic worker, age sixteen, Medan, Indonesia, December 13, 2004

Millions of women and girls around the world turn to domestic work as one of the few options available to them in order to provide for themselves and their families.<sup>1</sup> Instead of guaranteeing their ability to work with dignity and free of violence, governments have systematically denied them key labor protections extended to other workers. Domestic workers, often making extraordinary sacrifices to support their families, are among the most exploited and abused workers in the world.

Abuses against domestic workers, typically taking place in private homes and hidden from the public eye, have garnered increased attention in recent years. The long list of abuses committed by employers and labor agents includes physical, psychological, and sexual abuse; forced confinement in the workplace; non-payment of wages; and excessively long working hours with no rest days. In the worst situations, women and girls are trapped in situations of forced labor or have been trafficked into forced domestic work in conditions akin to slavery.

Increased awareness has unfortunately not been matched by concerted government action. Hong Kong is one of the few places where the government guarantees equal protection under its labor laws. The norm is for governments to exclude domestic

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<sup>1</sup> Although men and boys may also be domestic workers, this report focuses on the women and girls who comprise the overwhelming majority of workers in this sector around the world.

workers from these laws altogether, or to provide weaker, poorly enforced regulations that leave employers enjoying virtual impunity to exact excruciatingly long hours of work for grossly inadequate wages.

Since 2001, Human Rights Watch has conducted research on abuses against domestic workers originating from or working in El Salvador, Guatemala, Indonesia, Malaysia, Morocco, the Philippines, Saudi Arabia, Singapore, Sri Lanka, Togo, the United Arab Emirates, and the United States (see Appendix A). In over twelve different research trips and numerous follow-up trips, we have interviewed hundreds of women and girl domestic workers, government officials, employment agents, employers, activists with private nongovernmental and faith-based organizations, and representatives of international organizations.

Our extensive research reveals an alarming prevalence of abuses against domestic workers. While we interviewed workers in each country who were happy with their jobs, many more described deplorable working conditions and egregious violations of their rights that are strikingly similar across countries. Despite increasing attention and some positive steps, governments' response has thus far been inadequate. This compendium sets out our findings with respect to the following overlapping categories: (1) principal criminal abuses common to all domestic workers; (2) principal labor abuses common to all domestic workers and exclusion from labor laws; (3) specific concerns of child domestic workers; and (4) specific concerns of migrant workers.<sup>2</sup> We discuss best and worst government responses and practices, and present our recommendations for action.

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Several barriers inhibit estimates of the total number of women and girl domestic workers at national and international levels. Categorized as “informal labor,” most governments consider domestic work beyond the scope of regulation and scrutiny. Hidden in private households, domestic workers may remain unregistered and uncounted—literally invisible. Despite these difficulties, some national-level estimates are available. The International Labour Organization (ILO), which has conducted several

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<sup>2</sup> Throughout this report, the term “migrant worker” denotes a person who has traveled transnationally, consistent with the definition in the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Migrant Workers Convention), adopted December 18, 1992, U.N. G.A. Res. 45/158 (entered into force July 1, 2003), art. 2.1: “The term ‘migrant worker’ refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national.”

national baseline studies to determine the scope of child domestic labor, estimates that more girls under sixteen work in domestic service than in any other category of child labor.<sup>3</sup> In Indonesia, the ILO estimates there are nearly 700,000 child domestic workers, while in El Salvador over 20,000 girls and women between the ages of fourteen and nineteen are domestic workers.

The numbers of women migrants has increased significantly over the last three decades, and they now comprise approximately half of the estimated 200 million migrants worldwide. Women and girls migrating as domestic workers are an important part of this trend. The feminization of labor migration is particularly pronounced in the Philippines, Indonesia and Sri Lanka, where national-level estimates indicate that women comprise 60-75 percent of legal migrants. The vast majority of these are employed as domestic workers in the Middle East, Singapore, Malaysia and Hong Kong. Of the estimated 850,000 workers from Indonesia and Sri Lanka in Saudi Arabia, the majority are women and in some cases girls (using falsified travel documents) employed as domestic workers. There are approximately 160,000 migrant domestic workers in Singapore and 300,000 in Malaysia. These numbers underestimate the true population as many women and girls migrate outside legal channels and then find employment as domestic workers.

Estimating the prevalence of abuse is also difficult given the lack of reporting mechanisms, the private nature of work, the lack of legal protections, and restrictions on freedom of movement of domestic workers. However, there are many indications that abuses are widespread. In Saudi Arabia, the Indonesian, Sri Lankan and Philippines embassies handle thousands of complaints a year. In January 2004, for instance, the Sri Lankan embassy estimated it was receiving about 150 domestic workers each month who had fled their employers.<sup>4</sup> In Singapore, at least 147 domestic workers have fallen to their deaths from hazardous workplace conditions or suicide. In most of these countries, embassies have created shelters onsite to handle the huge numbers of domestic workers seeking assistance for unpaid wages, physical or sexual abuse, or poor working conditions. In many country studies around the world, the ILO's International Program for the Elimination of Child Labour (IPEC) has found that working conditions are so exploitative that domestic work is a worst form of child labor.

In this report, the stories of abuse told by domestic workers around the globe demonstrate the profound human cost of the negligence and discrimination they experience. To protect their privacy, all the names of domestic workers have been

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<sup>3</sup> International Labour Organization, *Child Labour. Tolerating the Intolerable* (Geneva: ILO, 1996).

<sup>4</sup> Mohammed Rassooldeen, "Sri Lanka to Sign Deal to Protect Interests of Housemaids, Employers," *Arab News*, January 22, 2004.

changed, unless otherwise indicated. In line with the Convention on the Rights of the Child, Human Rights Watch considers a child to be any person under the age of eighteen.

### **Best and worst government practices**

Governments' response to abuses against domestic workers have largely been piecemeal and reactive. Domestic workers, at risk of rights violations during recruitment, placement and employment, are often in situations that prevent them from reporting abuses. Comprehensive and proactive strategies are needed to provide oversight of labor agencies and recruiters, monitor working conditions, detect violations, and impose civil and criminal sanctions on abusive agencies and employers. Instead, in an overall context of discrimination against domestic workers by excluding them from labor laws, efforts to detect and sanction workplace abuse are severely limited. Laws that should protect child domestic workers are poorly enforced. And although countries of workers' origin and countries of employment have adopted initiatives to address abuse of migrant domestic workers, much needed legal reform, enhanced oversight and regulation of employment agencies, and improved access to mechanisms for redress and rehabilitation for abuse are still lacking.

An appropriate legal framework is critical to protecting domestic workers' rights. Labor legislation in Hong Kong sets a positive example: domestic workers have the right to a minimum wage, a weekly day of rest, maternity leave, and public holidays. Most countries around the world, however, exclude domestic work from their labor codes or provide for lesser rights. Labor legislation must be complemented by criminal laws allowing for successful prosecution of offenses such as physical, psychological, and sexual abuse, forced labor, forced confinement, and trafficking in persons. In increasing by 1.5 times the criminal penalties for certain abuses against domestic workers, Singapore has rightly acknowledged the particular risks faced by these workers. Punitive immigration laws, as in Malaysia and Saudi Arabia, that discourage migrant domestic workers from fleeing abusive employers and militate against pressing charges for criminal offenses, must be reformed. In Malaysia and the United States, domestic workers may get special visas to remain in the country to pursue civil and criminal complaints, but reforms should be adopted to make it easier to obtain authorization to work during this period.

Good laws become meaningful when accompanied by public awareness campaigns, training of law enforcement, labor and immigration officials, the existence of accessible complaint mechanisms, and effective enforcement. Best practices here include the full

protection of domestic workers under Hong Kong's labor laws, and the prosecution and imprisonment of employers who have physically abused their domestic workers in Singapore. This type of protection remains rare, however, and government authorities charged with enforcing domestic workers' rights often lack sufficient resources and training to help them identify abuses and assist victims. Laws that could be used to protect child domestic workers, such as Indonesia's Child Protection Act and minimum age for employment laws in most countries, are rarely invoked.

An adequate framework must be in place to regulate and monitor recruitment, training, and employment conditions. Though certain aspects should be improved, Singapore's accreditation program for employment agencies is a step in the right direction. Through the Philippines Overseas Employment Administration, the Philippines has extended greater government protections to Filipinas employed abroad as domestic workers, including a standard contract that ensures a weekly day of rest and regulations that require employers to pay most of the costs associated with recruitment and placement. Monitoring of workplace conditions—a critical element to enforcing domestic workers' rights—remains weak to non-existent in most countries, in part due to restrictions on the ability of labor inspectors to enter private households. Mechanisms to blacklist employment agencies that break the law, identify and blacklist abusive employers, and screen returning migrant domestic workers are all necessary components of a comprehensive strategy.

Despite increasing recognition by the international community of the systematic exploitation and abuse suffered by domestic workers, much more international commitment and concerted effort is required to end these abuses. The United Nations bodies such as the ILO, the UN Children's Fund (UNICEF), the UN Development Fund for Women (UNIFEM), the International Organization for Migration (IOM), and the Global Commission on International Migration (GCIM) have begun to address the issue. However, there are often no regional minimum standards on treatment of migrant domestic workers, leading to a "race to the bottom"—a rivalry to push the competitive edge of their potential overseas domestic labor workforce by offering the fewest labor protections—especially among countries of origin like Indonesia, Sri Lanka, Nepal, and India. Economic cooperation bodies that established core minimum labor standards have failed to address domestic work. Many governments have yet to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Migrant Workers Convention) or to effectively enforce it. Governments need to pay much more attention to the role of education reforms in preventing children from leaving school to be domestic workers, or ensuring they can continue their education while working.



The UN General Assembly's High Level Dialogue on Migration and Development in September 2006 will be an important venue for governments to increase their cooperation regarding domestic work, to commit to strong, sustained, and immediate actions to extend key labor protections to domestic workers, and to create mechanisms for implementation.

## **Key recommendations**

### ***To Labor Ministries***

Increase awareness about domestic workers by:

- Developing mass public information campaigns to educate domestic workers, labor recruiters, and employers about domestic workers' rights and the penalties for committing abuse. Ensure dissemination of this information in the languages spoken by domestic workers;
- Gathering data on domestic workers in all government labor force surveys, including data on labor complaints and criminal cases involving domestic workers, disaggregated by sex and age.

Strengthen labor protections for domestic workers and enforcement by:

- Creating and publicizing accessible complaints mechanisms for domestic workers who experience problems such as violence, unpaid wages, or poor working conditions, including hotlines, support for aid groups that assist domestic workers, helpdesks at locations frequented by domestic workers, and coordination with the police and immigration officials;
- Authorizing labor inspectors to enter private houses to investigate conditions of employment for domestic workers;
- Enacting regulations to monitor labor recruitment practices and training centers, and providing sanctions for labor agents who commit abuses;
- Implementing policies to prevent exorbitant recruitment fees, exploitative systems of debt payments, and forced labor.

Address child labor by:

- Prioritizing the elimination of the worst forms of child domestic labor and, with the assistance of the International Labour Organization, instituting a Time-Bound program to eliminate the worst forms of child labor;

- Strictly enforcing fifteen as the minimum age of employment for all sectors, including domestic labor;
- Investigating promptly all complaints of hazardous child labor.

### ***To Heads of State and Government, and Parliaments***

- Extend equal protection of the labor laws to domestic workers, including rights to a just wage, overtime pay, weekly rest days, benefits, and workers' compensation.
- Enact specific regulations governing minimum age of employment, hours of work, forms of labor likely to be harmful to children, corporal punishment, entitlement to rest and leisure, and compensation.
- Ratify the Convention on the Protection of All Migrant Workers and Members of Their Families.
- Ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime; the International Labour Organization's Forced Labour Convention, Minimum Age Convention and Worst Forms of Child Labour Convention; and the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery.

### ***To the Police, Attorney General's Offices, and the Judiciary***

- Develop protocols and train police officers on how to respond appropriately to domestic workers' complaints, how to investigate and collect evidence in such cases, and to provide referrals for health care, counseling, shelter, legal aid, and in the case of migrant domestic workers, referrals to their embassies.
- Prosecute perpetrators of physical violence, sexual violence, and those who unlawfully confine women and girl domestic workers.
- Investigate, prosecute and punish perpetrators of forced labor and trafficking in women and children into forced domestic work.

### ***To the Foreign Ministries of Workers' Countries of Origin***

- Prioritize increased protections for migrant domestic workers through bilateral and multilateral diplomacy, including increased cooperation with other labor-sending countries and agreements ensuring regional minimum standards.
- Improve services for migrant domestic workers at embassies and consular offices, including adequate staffing, access to legal aid, health care, trauma counseling, and shelter. Conduct outreach by supporting domestic workers' associations, information campaigns, and skills-training programs.
- Collect detailed information on all abuse cases and complaints made by migrant domestic workers. Track and make publicly available data on types of abuses, the number of formal complaints, the time involved to resolve cases, and the final resolution. Data on employment agencies found to have unethical or abusive practices should also be available to potential workers and employers.

### ***To Ministries of Education***

- Ensure the right of all children to free and compulsory basic education. In particular ensure that school fees and related costs are not barriers to children's enjoyment of formal education.

## II. Criminal abuses against domestic workers

*Twice I lost consciousness as a result of the beatings. The first time it was raining and there was a leak in the house and I forgot to put a bowl out [to catch the water]. She hit me with a mop. The second time, when I washed the clothes, the color ran and the employer hit me. I said I was sorry and that I would return the cost by deducting it from my salary, but she still hit me. She never sent me to see a doctor or to the hospital. Once I was a bit by a wooden stick and she hit me until the stick broke. When I woke up late, after 5 a.m., the employer would pour hot water on me, like if I woke up at 6 a.m.*

—Titi Hasanah, Indonesian domestic worker, Kuala Lumpur, Malaysia, February 25, 2004

Women and girls employed as domestic workers around the world face an appalling array of abuses. This chapter describes the most serious criminal offenses perpetrated against domestic workers. These include physical, psychological and sexual abuse; food deprivation; forced confinement; and trafficking into forced labor. The testimonies that follow demonstrate that domestic workers, whether they are adults or children, working in their own countries or abroad, are at risk of these abuses.

Employers who abuse their domestic workers often enjoy impunity. Many factors militate against domestic workers reporting abuse, including restrictions on their movements and lack of awareness about their rights. Yet governments have by and large failed to take steps to address these barriers, for example by launching campaigns to raise awareness and instituting accessible reporting mechanisms, and actively prosecuting abusive employers. When domestic workers do report criminal abuse, police often dismiss their claims and return them to their employers. The difficulty of gathering evidence of abuses committed in private households poses challenges to effective prosecution.

The government of Singapore has set a positive example by increasing the criminal penalties for abuses against domestic workers in recognition of the vulnerability of their position, and widely publicizing cases to raise greater awareness. While there have been prosecutions for egregious physical abuse, Singapore has yet to prosecute any cases of forced confinement (which is discussed in more detail in Chapter V, below). Gathering evidence of abuse often remains an obstacle, and complementary strategies are generally needed to pursue effective investigations. In other countries, such as Saudi Arabia, domestic workers who have suffered physical or sexual abuse risk being doubly victimized by punitive immigration laws and biased law enforcement officials.

## ***Psychological, physical and sexual violence***

Women and girls employed as domestic workers in private households are often at risk of psychological, physical, and sexual abuse. These risks are heightened given their isolation, the imbalance of power between employer and domestic worker, lack of information or ability to seek help, and financial pressures and debts that make them afraid to lose their employment. The risk of abuse may be heightened when domestic workers are confined to the household, and is particularly great for young girls, who are typically even more isolated and dependent on their employers.

### ***Psychological abuse***

*My employers used only abusive words. They didn't hit me...they would say things like, "Why don't you jump out of the window? Rather than thinking about your parents, it would be better if you just committed suicide by jumping out of the window." The wife was really angry and used bad words. She called me a pig, a prostitute, an easy woman.*

—Sri Mulyani, Indonesian domestic worker, age thirty, Singapore,  
February 19, 2005

Almost without exception, the domestic workers interviewed by Human Rights Watch around the world suffered some form of psychological abuse. Verbal abuse—harsh insults, threats and belittlement—often accompanies physical abuse and takes place in an overall context of excessive workloads, sleep deprivation, insufficient or poor quality food, and substandard living conditions. This treatment reinforces employers' domination and control over domestic workers, making them less likely to resist or seek redress for abusive employment conditions.

Lastri, a fifteen-year-old domestic worker in Indonesia, told us, "I did not like my employer because she would shout at me, call me a 'Taa' [shit] and 'Anjing' [dog]. I did not feel comfortable. Why am I being treated this way? I could not stand my employer's treatment of me."<sup>5</sup> Ani Rukmono, an Indonesian domestic worker in Malaysia who was also routinely physically abused, told Human Rights Watch her employer would call her a "monkey, a donkey. Sometimes she would say I was stupid, or like a bull."<sup>6</sup> Another

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<sup>5</sup> Human Rights Watch interview with Lastri, child domestic worker, age fifteen, Yogyakarta, Indonesia, December 2, 2004.

<sup>6</sup> Human Rights Watch interview with Ani Rukmono, Indonesian domestic worker, age twenty-two, Kuala Lumpur, Malaysia, February 26, 2004.

Indonesian domestic worker in Malaysia said her employer “would threaten me and called me names. She would say, ‘I’m not afraid if I have to kill you.’”<sup>7</sup>

Indigenous women working as domestics in Guatemala reported regular insults referring to their ethnicity, such as being called “a dirty Indian,” and an “Indian, a mule, stupid.”<sup>8</sup> Julia Domingo, a K’iche’ indigenous woman, was thrown out late at night after a strong disagreement with her boss, who told her “you’re an Indian, you’re useless.”<sup>9</sup>

Typical threats against domestic workers include withholding pay, physical violence, reporting the worker to labor agents, or reporting them to the police or immigration officials. A common threat against migrant women is that they will be sent back home, a terrifying prospect to workers with massive debts or who fear reprisals from their labor agents (issues affecting migrant workers are discussed more extensively in Chapter V, below). Employer abuse, combined with isolation at the workplace, excessive work demands, and financial pressures may contribute to intense anxiety and depression. Human Rights Watch interviewed a domestic worker in Singapore who had attempted suicide after suffering poor working conditions and feeling she had no alternatives for escape. She said,

I was afraid if I ran away, I would be caught by the police. Madam often got angry with me, complained to the [employment] agency, and the agency also got angry with me. The agent asked, “What do you want?” I said, “I want to die, ma’am, because the people here are cruel, everything I do is wrong, I’m always called an idiot and stupid.” [It got so bad], I really didn’t know what to do, so I drank poison for rats and cockroaches. I lost consciousness, and Madam brought me to the hospital...The police told me it was wrong to try suicide. When the incident happened, I had been working exactly seven months. I had earned S\$90 [U.S.\$53].<sup>10</sup>

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<sup>7</sup> Human Rights Watch interview with Tita Sari, Indonesian domestic worker, age twenty-four, Kuala Lumpur, Malaysia, February 26, 2004.

<sup>8</sup> Human Rights Watch interviews with domestic workers, Guatemala City, Guatemala, June 2000.

<sup>9</sup> Human Rights Watch interview with Julia Domingo, Guatemalan domestic worker, age twenty-one, Guatemala City, Guatemala, June 4, 2000.

<sup>10</sup> Human Rights Watch interview with Muriyana Suharti, Indonesian domestic worker, age twenty-two, Singapore, March 8, 2005.

## Physical abuse

*If I did something the employer didn't like, she would grab my hair and hit my head on the wall. She would say things like, "I don't pay you to sit and watch TV! You don't wash the dishes well. I pay your mother good money and you don't do anything [to deserve it]."... Once I forgot clothes in the washer and they started to smell so she grabbed my head and tried to stick it in the washing machine.*

—Saida B., child domestic worker, age fifteen, Casablanca, Morocco,  
May 17, 2005

Physical violence against domestic workers ranges from slaps to severe beatings using implements such as shoes, belts, sticks or household implements; knocking heads against walls; and burning skin with irons, among other forms of violence. A survey of only a handful of Indonesian newspapers in 2004 uncovered seven reports of child domestic workers being severely beaten by their employers. In two of these cases the girls died, while another was left paralyzed and blind. Each year the embassies in Malaysia, Saudi Arabia, and Singapore of labor-sending countries receive hundreds of complaints about violent employers. Human Rights Watch interviews with women and girl domestic workers in numerous countries demonstrate the widespread and devastating nature of the violence.

Ani Rukmono, an Indonesian domestic worker in Malaysia, recounted her experience of daily violence:

Every day something made [my employer] angry. Every day the woman hit me many times with a wooden stick. Sometimes she slapped me, sometimes she hit me with a hanger or a comb, sometimes when I was cooking, she hit my head with tools. My body got bruises, I became black from my head to my hips. I never saw a doctor. Sometimes I treated the pain myself with a compress, no medicine. When the woman hit me, the man was working, he didn't know. She would say, "If I hit you, do not lose consciousness. If you do, I will dig a hole and leave you there so nobody knows."<sup>11</sup>

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<sup>11</sup> Human Rights Watch interview with Ani Rukmono, Indonesian domestic worker, age twenty-two, Kuala Lumpur, Malaysia, February 26, 2004.

Employers or labor agents may inflict physical abuse so severe that it leads to a domestic worker's hospitalization or death. For example, Human Rights Watch interviewed Widyaningsih, a twenty-seven-year-old domestic worker, who was hospitalized after returning from employment in Saudi Arabia. She had received surgery on her ears due to injuries caused by repeated beatings on her head, and had several scars on her arms and feet from her employer having beaten her with a cable and other implements.<sup>12</sup>

Articles about physical abuse and sexual abuse of domestic workers have appeared regularly in newspapers in Asia for several years, with a few cases sparking national and regional attention. In late 2001, a Singaporean employer, Ng Hua Chye, beat his nineteen-year-old Indonesian domestic worker, Muawanatul Chasanah, so severely that her stomach ruptured and she died. An autopsy found evidence of more than two hundred other injuries on her body, a result of whipping, kicks, punches, burns, and scalding.<sup>13</sup> Ng Hua Chye was tried and sentenced to eighteen years in prison and caning.<sup>14</sup> The Singaporean advocacy group Transient Workers Count Too was formed in response to the Muawanatul Chasanah case. In Malaysia, graphic pictures of the burned and beaten body of nineteen-year-old Indonesian domestic worker Nirmala Bonat were printed in newspapers, sparking an outcry, including an official apology from the Malaysian government. Bonat's employer, Yim Pek Ha, allegedly had poured boiling water on her, beat her, and pressed a hot iron on her breasts and back as punishment for mistakes in ironing clothes.<sup>15</sup> The case is ongoing, and due to immigration rules, Bonat has been confined to a shelter at the Indonesian embassy for over two years while she awaits its conclusion.

As in Bonat's case, employers often use physical violence in response to mistakes, minor accidents, or minor infractions such as cleaning poorly or responding slowly to an order. When fifteen-year-old Putri in Indonesia was unable to remove the dirt trapped between the bathroom tiles, her employer poured a cleanser containing hydrochloric acid on her right hand and arm, resulting in discoloration of the skin, burns, and permanent scarring.<sup>16</sup> Najat Z., an eleven-year-old domestic worker in Morocco, told Human Rights Watch, "If something broke, like dishes or a glass, they would tell me they would take the money out of my pay and they beat me. They used an electrical cord... Both the

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<sup>12</sup> Human Rights Watch interview with Widyaningsih, Indonesian domestic worker, age twenty-seven, Jakarta, Indonesia, May 19, 2006.

<sup>13</sup> "18 ½ years, Caning for Man who Abused Maid," *The Straits Times*, July 20, 2002.

<sup>14</sup> *Ibid.*

<sup>15</sup> "This is the punishment for breaking a teacup," *The New Straits Times*, May 20, 2004.

<sup>16</sup> Human Rights Watch interview with Putri, child domestic worker, age fifteen, Pamulang, Indonesia, December 18, 2004.



husband and the wife were mean to me.”<sup>17</sup> Abena R., a ten-year-old from Ghana who was trafficked into Togo, was badly beaten by her employer for not obeying an order immediately: “[M]y boss yelled at me and beat me with a stick, she broke my hand. She didn’t take me to the hospital.” The nongovernmental organization (NGO) providing shelter to Abena said her hand was paralyzed and might never heal.<sup>18</sup>

Sometimes employers use violence if a domestic worker demands better working conditions or her pay. A Filipina domestic worker in the United Arab Emirates said, “I asked for my salary and she hit me. She slapped me, my nose bled.”<sup>19</sup>

### ***Food deprivation***

*It was hard to work for them because there was not enough food. I got food once a day. If I made a mistake, for example, if we ran out of rice and I forgot to tell the employer, she wouldn’t give me food for two days. I often got treatment like that. Sometimes for one, two, three days. Because I was starving, I would steal food from the house. Because of that, the employer hit me badly.*

—Arianti Harikusumo, Indonesian domestic worker, age twenty-seven, Kuala Lumpur, Malaysia, February 25, 2004

One of the most common forms of mistreatment that serves to reinforce the inferiority of domestic workers’ status in the household is the withholding of food, or providing poor quality or rotten food. In some cases, as in Arianti’s experience above, domestic workers are literally starved, and forced to steal food—and suffer sometimes brutal consequences if discovered—or to rely on the kindness of neighbors and others for basic sustenance. This treatment becomes a form of physical and psychological abuse.

Aisyah Fatah, an Indonesian domestic worker explained that she lost fourteen kilograms, or thirty-one pounds, in her job in a Singaporean household. “There was not enough food. For breakfast I had two pieces of bread... When I ate one piece of fish, my employer got very angry. At night I was hungry. When the employer went out, sometimes my neighbor would knock on the door and give me rice to eat... Because the

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<sup>17</sup> Human Rights Watch interview with Najat Z., child domestic worker, age eleven, Marrakech, Morocco, May 20, 2005.

<sup>18</sup> Human Rights Watch interview with Abena R., trafficked child domestic worker, age ten, Lomé, Togo, May 17, 2002.

<sup>19</sup> Human Rights Watch interview with Maria Ramos, Filipina domestic worker, age thirty-eight, Dubai, United Arab Emirates (UAE), February 27, 2006.

work is hard, we need to eat.”<sup>20</sup> This problem is so widespread that Human Rights Watch interviewed several labor agents who keep scales in their office to monitor the weight of domestic workers.

Eleven out of twenty-six Filipina domestic workers interviewed in the United Arab Emirates in March 2006 reported being deprived of adequate nutrition. Rosa Alvarez told us, “I don’t want to die from starvation and too much work. Breakfast was water and bread, there was no lunch. They would say I can only eat bread. I lost five kilograms [eleven pounds] in three months.”<sup>21</sup> Another domestic worker told us she had lost eight kilograms, or nearly 18 pounds, since she began working because she was given only rice and bread to eat.<sup>22</sup>

In Guatemala, indigenous domestic workers who were given different food than they were made to prepare for their employers, or had only left-overs to eat, experienced the treatment as explicitly racist. Sandra Chicop, a seventeen-year-old indigenous girl, explained, “To them [ladinos, or non-indigenous Guatemalans], it seems like we’re different people. You can tell at lunchtime, they don’t give us the same food. There’s so much indifference.”<sup>23</sup> Silvia Leticia Pérez, also indigenous, worked in one job when she was fourteen where she only had ten minutes to eat lunch and dinner during her seventeen-hour workday. Her employers gave her “a different class of food,” she recalled, and made her eat separately from them. “They said to me, ‘go eat there, not here nearby.’ They treated me poorly because I wear *traje* [traditional dress].”<sup>24</sup>

In Morocco, Najat Z., eleven, told Human Rights Watch, “I ate lentils or *loubia* [bean stew], and the family ate meat.”<sup>25</sup> In another case, Shadia A. was forced to work while the family broke the Ramadan fast and was reduced to snatching bits of food from the kitchen when her employer wasn’t looking.<sup>26</sup> In Indonesia, where government officials consistently defended the idealized notion that young domestic workers are treated as

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<sup>20</sup> Human Rights Watch interview with Aisyah Fatah, Indonesian domestic worker, age twenty-one, Singapore, March 4, 2005.

<sup>21</sup> Human Rights Watch interview with Rosa Alvarez, Filipina domestic worker, age twenty-four, Dubai, UAE, May 19, 2006.

<sup>22</sup> Human Rights Watch interview with Maria Ramos, Filipina domestic worker, age thirty-eight, Dubai, UAE, May 19, 2006.

<sup>23</sup> Human Rights Watch interview with Sandra Chicop, Guatemalan domestic worker, age seventeen, Santiago Sacatepequez, Guatemala, June 18, 2000.

<sup>24</sup> Human Rights Watch interview with Silvia Leticia Pérez, child domestic worker, age fourteen at time of employment, Santiago Sacatepequez, Guatemala, June 18, 2000.

<sup>25</sup> Human Rights Watch interview with Najat Z., child domestic worker, age eleven, Marrakech, Morocco, May 20, 2005.

<sup>26</sup> Human Rights Watch interview with Shadia A., child domestic worker, age fifteen at time of employment, Casablanca, Morocco, May 27, 2005.

members of the family, girls reported being given food only once a day or stale and left-over food. For example, Vina, who began domestic work when she was thirteen, said her employer “would give me food once a day, but if I ate more than that she would shout at me and call me ‘pig.’ I was hungry, that’s why I would take a little more food.”<sup>27</sup>

Food that is insufficient in quantity and quality to meet the nutritional demands of growing bodies can have long-term health consequences for child domestic workers. A 2001 study of child domestic workers in Casablanca, Morocco, found that 75 percent of the girls under fifteen reported physical ailments related to their work.<sup>28</sup>

### ***Sexual harassment and assault***

*When the lady went to drop off the children to the grandmother’s house, the man would stay at home...he raped me many, many times. Once a day, every day for three months. He hit me a lot because I didn’t want to have sex. I don’t know what a condom is, but he used some tissues after he raped me.*

*[After paying off my three months’ debt] I took a knife, I said, “Don’t get near me, what are you doing?” I told the lady, she was very angry with me and [the next day] she took me to the harbor and said she bought a ticket for me to Pontianak. I had no money to get home from Pontianak. I haven’t gone to a doctor.*

— Zakiah, returned domestic worker from Malaysia, age twenty,  
Lombok, Indonesia, January 24, 2004

Isolation in the household, and lack of privacy or of conditions to ensure their personal security, place domestic workers at risk of sexual harassment and assault. The true dimensions of sexual violence against women and girl domestic workers may never be known; under-reporting is likely to be significant due to workers’ isolation and the deep social stigma attached to sexual assault. Human Rights Watch has collected the testimonies of domestic workers in numerous countries; in most cases, the victims endured sexual violence because they were unable to escape, felt acute financial pressure to remain in their jobs, or were under threat of greater harm if they did report. Workers

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<sup>27</sup> Human Rights Watch interview with Vina, child domestic worker, age thirteen at time of employment, Medan, Indonesia, December 15, 2004.

<sup>28</sup> Royame du Maroc haute Commissariat au Plan, Direction Régionale du Grand Casablanca, Etude sur les filles-domestique âgées de moins de 18 ans dans la Wilaya de Casablanca (Kingdom of Morocco, High Commission, Regional Office for Greater Casablanca, Study of Girl Domestics Under Eighteen Years of Age in Casablanca Province), (Rabat: UNFPA and UNICEF), 2001, p. 58.

who did denounce their victimizers were often fired and, in the case of migrant domestic workers, immediately repatriated.

The continuum of sexual violence ranges from propositions, threats of rape, and groping, to repeated rape. Crying and whispering, twenty-year-old Indonesian Dewi Haryanti told us that her Singaporean employer,

asked me to have sex with him... Why do domestic workers always have to submit? I never follow his wish. I lie to him. I am afraid that some day he will really force me... When his wife is not at home, he approaches me... The employer's bad behavior is why I want to go home. If it is bad words, I can take it. I prefer being hit or bad words to this.<sup>29</sup>

Ulfah Samad, who migrated to work as a domestic worker in Saudi Arabia when she was seventeen, said her male employer would regularly attempt to fondle her when her female employer left the house for weekly medical check-ups. "He tried to touch my lips and my butt... [another time] he showed his penis to me. I was mad, I yelled, 'this is not appropriate. I don't like this.'"<sup>30</sup> Samad said that every time her female employer left the house, "I locked myself in the bathroom because I was really scared.... I didn't know what to do, and I was scared because it was a regular thing."<sup>31</sup> This continued for approximately ten months until one day, her employer approached her completely naked. "I hid behind a door and tried to secure it with a chair. He was so strong he pushed the door open... I was scared. I panicked and I ran and I saw a window without bars. I jumped out of the third storey window."<sup>32</sup> Samad broke her leg in the fall and sustained injuries to her back. Linda Gonzalez, a Filipina domestic worker in the United Arab Emirates said, "every morning the husband would come into the kitchen, hug me, and kiss me. I informed the agency and the wife, but nothing was done. I was told, 'That's the nature of that man.'"<sup>33</sup>

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<sup>29</sup> Human Rights Watch interview with Dewi Haryanti, Indonesian domestic worker, age twenty, Singapore, February 27, 2005.

<sup>30</sup> Human Rights Watch interview with Ulfah Samad, Indonesian domestic worker, age nineteen, Jakarta, Indonesia, May 19, 2006.

<sup>31</sup> Ibid.

<sup>32</sup> Ibid.

<sup>33</sup> Human Rights Watch interview with Linda Gonzalez, Filipina domestic worker, age twenty-three, Dubai, UAE, February 27, 2006.

Sexual harassment of domestic workers has been characterized as a “widespread phenomenon” in Latin America.<sup>34</sup> An ILO-IPEC study in El Salvador revealed that 15.5 percent of girl domestic workers who had changed employers had left their previous employment because of sexual harassment or abuse, making such abuse the second leading cause for leaving a position.<sup>35</sup> In Guatemala, one-third of the adult domestic workers we interviewed had suffered some kind of unwanted sexual approaches and/or demands by men living in or associated with the household, most of them when they were adolescents in their first jobs.

Fatima, a twenty-six-year-old domestic worker from the Philippines, escaped the Saudi Arabian household where she worked after the third and most serious incident of sexual harassment by her male employer. On two occasions before the last and most traumatic incident, the employer had exposed himself and offered to pay her if she masturbated him. When she refused, he held a knife to her throat and threatened to kill her if she told his wife. Then one day,

I was mopping the floor in the salon. He came in and asked for water. When I gave it to him, he dropped it on the floor and told me to clean it up. Then he took off his *thobe* and said to me, “Take this.” It was his penis. He told me, “It’s good. I want to marry you, I love you, I want to support your children.” I said no... I left and ran upstairs. He came after me... He closed all the doors and punched and beat me. He said, “Don’t push me to do something bad.”<sup>36</sup>

Although Fatima managed to escape the house and reported the assault, she was discouraged from pressing charges and was repatriated to the Philippines.

Other domestic workers suffer repeated rape. Dian in Indonesia began working for her cousin when she was thirteen years old. Her salary, one million rupiah (U.S.\$111) a year, was paid directly to her mother. Dian told us:

We lived in a very small house. The husband slept in the *warung* [restaurant] and I slept with the female employer. It happened three

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<sup>34</sup> Gaby Ore-Aguilar, “Sexual Harassment and Human Rights in Latin America,” in Adrien K. wing, ed., *Global Critical Race Feminism. An International Reader* (New York: New York University Press, 2000), p. 368.

<sup>35</sup> Oscar Godoy, *El Salvador. Trabajo infantil doméstico: Una evaluación rápida* (Geneva: ILO-IPEC, 2002), p. 24. The leading cause for leaving a position was “unjust or insufficient pay.”

<sup>36</sup> Human Rights Watch interview with Fatima, Filipina domestic worker, age twenty-six, Quezon City, Philippines, December 16, 2003.

months after I started working... It was 4 a.m. and I was still sleeping. He came into the room. I was forced to have sex with him. He threatened me. He said he would hit me if I told anyone. He told me that he would throw me out and my mother would get no money. He would come to me three times a week whenever his wife was not home. This happened for three years. I was scared, but I wanted to support my mother.<sup>37</sup>

Melda, a thirty-three-year-old Filipina working in Saudi Arabia, was raped twice by her male employer. “I was frightened. He grabbed me and pushed me down to the floor. I was shouting and crying. He told me that he would kill me if I said anything to his wife,” she said describing the first attack. When Melda was finally able to escape and report the assault to the police, they returned her to the house despite her obvious distress. “I was crying, telling him it was no good, that my employer raped me, that I did not want to go back, that I wanted to go to the embassy.” Shortly after her employer raped her for the second time, he announced that she was going back to the Philippines that very day. She had worked for almost two months but all of her salary was deducted by the manpower agency to pay the placement fee.<sup>38</sup>

As in Susanti Pramono’s case highlighted at the beginning of this section, many migrant domestic workers endure sexual abuse because they need to pay off debt. Others feel the financial pressure to continue earning money for their families back home, and still others are so isolated or physically confined that they have no way of escaping or seeking help. Several other Indonesian women told Human Rights Watch how they had shared Susanti’s experience of a hostile reaction from the female employer and immediate repatriation to Indonesia upon telling them about harassment and abuse. Some received their wages, others did not.

In some cases, employment agents are the perpetrators of sexual violence and harassment. One Filipina domestic worker reported, “the twenty-year-old brother of the sponsor [agent] raped me on the first day. The sponsor watched me when I was taking a bath.”<sup>39</sup> She escaped to her embassy after one week of enduring more verbal and

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<sup>37</sup> Human Rights Watch interview with Dian, child domestic worker, age thirteen at time of employment, Medan, Indonesia, December 14, 2004.

<sup>38</sup> Human Rights Watch interview with Melda, Filipina domestic worker, age thirty-three, Quezon City, Philippines, December 10, 2003.

<sup>39</sup> Human Rights Watch interview with Maria Reyes, Filipina domestic worker, age nineteen, Dubai, UAE, February 27, 2006.

physical sexual harassment and told us, “I am always crying. I can’t eat and I can’t sleep.”<sup>40</sup>

### *International human rights law and government response*

International human rights law establishes the right to life, security of person, and the right to be free from torture and other forms of cruel, inhuman, and degrading treatment.<sup>41</sup> In the Declaration on the Elimination of Violence Against Women, the United Nations stated that governments have an obligation to “prevent, investigate, and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by states or by private persons.”<sup>42</sup> A state’s consistent failure to do so amounts to unequal and discriminatory treatment, and constitutes a violation of the state’s obligation to guarantee women equal protection of the law.<sup>43</sup>

The Convention on the Rights of the Child (CRC) affirms the right of all children to be free from “all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s), or any other person who has the care of the child.”<sup>44</sup> The ILO’s Worst Forms of Child Labour Convention, which is discussed more fully in Chapter IV, below, prohibits work that is “likely to harm the health, safety or morals of children.”<sup>45</sup> The Worst Forms of Child Labour Recommendation No. 190—the authoritative interpretation of the convention—considers work that “exposes children to physical, psychological or sexual abuse” to fall into this category.<sup>46</sup>

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<sup>40</sup> Ibid.

<sup>41</sup> Universal Declaration of Human Rights (UDHR), adopted December 10, 1948, G.A. Res. 217A(III), U.N. Doc. A/810, art. 3; International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 999 U.N.T.S. 171 (entered into force March 23, 1976), art. 6; Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, U.N. Doc. A/RES/44/25 (entered into force September 2, 1990), art. 6 (right to life); UDHR, art. 5, ICCPR, art. 6; CRC, art. 37 (right to freedom from torture, cruel, inhuman or degrading treatment).

<sup>42</sup> Declaration on the Elimination of Violence against Women, G.A. Res. 48/104, 48 U.N. GAOR Supp (No. 49) at 217, U.N. Doc A/48/49 (1993), art. 4.

<sup>43</sup> Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted December 18, 1979, G.A. Res. 34/180, U.N. Doc. A/34/46 (entered into force September 3, 1981), art. 15; and ICCPR, art. 26. See also, Committee on the Elimination of All Forms of Discrimination against Women (CEDAW Committee), General Recommendation 19, Violence against Women (Eleventh Session, 1992), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc HRI/GEN/1/Rev.1 at 84 (1994) (Contained in document A/47/38), para 6.

<sup>44</sup> CRC, art. 19(1).

<sup>45</sup> ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (Worst Forms of Child Labour Convention), adopted June 17, 1999, 38 I.L.M. 1207 (entered into force November 19, 2000), art. 3(d).

<sup>46</sup> ILO Recommendation concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, ILO No. R190, June 17, 1999, art. 3.

The Universal Declaration of Human Rights (UDHR) stipulates that everyone has the right to the “realization... of the economic, social and cultural rights indispensable for his dignity and the free development of his personality” and to “a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing and medical care.”<sup>47</sup> The International Covenant on Economic, Social and Cultural Rights (ICESCR) protects the right to the highest attainable standard of physical and mental health; the CRC explicitly guarantees this right to children.<sup>48</sup>

Sexual harassment is a form of gender-based violence and discrimination prohibited under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Because it directly impacts equality in employment, the ILO’s Committee of Experts considers that sexual harassment falls within the scope of ILO Convention No. 111 concerning Discrimination in Employment and Occupation. The CEDAW Committee has commented that sexual harassment includes:

unwelcome sexually determined behaviour as physical contact and advances, sexually coloured remarks, showing pornography and sexual demand, whether by words or actions. Such conduct can be humiliating and may constitute a health and safety problem; it is discriminatory when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment, including recruitment and promotion, or when it creates a hostile working environment.<sup>49</sup>

The CEDAW Committee recommends that governments institute effective complaints procedures and remedies for survivors of gender-based violence. These include:

- (i) Effective legal measures, including penal sanctions, civil remedies and compensatory provisions to protect women against all kinds of violence, including, inter alia, violence and abuse in the family, sexual assault and sexual harassment in the workplace;
- (ii) Preventive measures, including public information and education programmes to change attitudes concerning the roles and status of men and women; and

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<sup>47</sup> UDHR, arts. 22 and 25(1).

<sup>48</sup> International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 993 U.N.T.S. 3 (entered into force January 3, 1976), art. 12(1); and CRC, art. 24.

<sup>49</sup> CEDAW Committee, General Recommendation No. 19, paras. 17-18.



- (iii) Protective measures including refuges, counseling, rehabilitation and support services for women who are the victims of violence or who are at risk of violence.<sup>50</sup>

Domestic workers who suffer the kinds of abuses documented in the section above should be able to seek redress in the criminal justice system. The lack of accessible complaint mechanisms, bias within law enforcement agencies and the judiciary, and lack of enforcement of existing laws in many countries pose significant barriers to domestic workers' ability to secure justice.

A telephone hotline established in Surabaya, Indonesia, by a consortium of NGOs and the local police to receive reports of violence against women and children is an example of a good system that could potentially be a resource for abused domestic workers. Instead, NGO representatives told Human Rights Watch that police rarely conduct follow-up investigations and simply refer callers to the NGOs for services. When we spoke to her in December 2004, the head of the police unit in charge of the hotline did not have any data on complaints, and could not think of any instance of an employer of a domestic worker being prosecuted or convicted of abuse.

Moroccan law contains provisions that could be used to punish child abuse, forced labor, sexual exploitation and trafficking in children, and the Indonesian Child Protection Act and Domestic Violence Law could also be invoked to protect domestic workers and prosecute abusers. In both countries, Human Rights Watch found that these instruments are rarely used to defend domestic workers' rights. In Morocco, activists told us that police only investigate complaints of severe abuse, and then are more likely to believe employers than child domestic workers, as are judges in the few cases that reach the courts. Similarly, in Indonesia, the police often fail to investigate or prosecute, and in many cases pressure the parties to settle the dispute in ways that leave the child domestic worker still exposed to retaliation.

Punitive immigration laws may actively discourage migrant domestic workers from seeking redress. Malaysia's well-known strict enforcement of its immigration laws, which carry penalties of imprisonment, caning, heavy fines, and indefinite detention, makes women less likely to attempt escape and report abuses; those that do and wish to press charges must pay a prohibitive monthly fee for a "special pass" allowing them to remain in the country—though unable to work—until the case is settled. In Saudi Arabia,

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<sup>50</sup> Ibid, para. 24(t)(i-iii).

foreigners who do not have their government-issued residency permit (*iqama*) are subject to arrest and deportation.

In response to growing evidence of abuses against migrant domestic workers, the Singaporean government has taken initial steps to reform its laws and policies, including providing education programs for domestic workers and employers, raising public awareness, and prosecutions of abusive employers. In 1998, the criminal code was reformed to increase by 50 percent the penalties for physical assault, sexual abuse and forced confinement when the perpetrator is an employer and the victim a foreign domestic worker. Between 2001 and 2004, twenty-six employers or household members were convicted and sentenced under this provision. Despite this progress, many cases never make it to trial, however, in part due to bias and inappropriate treatment by police. In Singapore, as in Malaysia and Saudi Arabia, migrant domestic workers told Human Rights Watch about police discouraging them from pressing charges and even returning them to their employers despite the workers' obvious distress.

Embassies of labor-sending countries have an important role to play in responding to migrant workers who have fled their employers. The Philippines, Sri Lanka and Indonesian embassies in Saudi Arabia, Singapore, and Malaysia, for example, have staff responsible for assisting migrant domestic workers submit labor complaints to the host country, get their passports back from employers and agents, and provide legal and medical treatment if necessary. Some embassies have temporary shelters, and others refer workers to privately-run shelters (see Chapter V, below). Yet embassies often only become aware of abuses if the domestic worker is somehow able to escape.

### ***Forced labor***

*They would lock me inside the house with the baby. I was not allowed to make phone calls or send letters to my family. I wasn't allowed to say anything or talk to the neighbors, I had to just keep quiet.*

—Ani Khadijah, Indonesian domestic worker, age thirty-four,  
Singapore, February 19, 2005

In certain cases, the totality of the circumstances in which domestic workers find themselves—forced confinement, restricted communication, abuse, unreasonably high debts and work under threat—amount to situations of forced labor.

Under international law, forced labor is work or service extracted by menace of penalty and without consent. Migrant workers and child domestic workers are particularly at risk of becoming trapped in forced labor. In Singapore and Malaysia, Human Rights Watch spoke with migrant domestic workers who felt they had no choice but to endure poor working conditions and at times serious abuses. These women were confined to the workplace, stripped of their passports and work permits, did not receive their full wages, and sometimes faced inflated agency fees for transferring employment (see also Chapter V, below). They were under direct or indirect threat from employers and labor agents of being trafficked into forced prostitution, charged substantial fines if they did not finish their contracts, or being abandoned far from their homes. Adelyn Malana, a twenty-two-year-old Filipina domestic worker in Singapore, told us her employer refused to send her back to her agent or grant her a transfer to another employer. She endured six months of regular beatings and food deprivation before she was able to escape.<sup>51</sup> After nine months of working fifteen to twenty hours a day, sleeping on the floor, and daily beatings, eighteen-year-old Indonesian Santi Kartika told her employer in Malaysia that she wanted to return to her agency. She told Human Rights Watch, “That is when he threatened to rape me and prostitute me.”<sup>52</sup>

Child domestic workers in Morocco and Indonesia also described situations amounting to forced labor. Salwa L., in Morocco, told us that when she was seventeen, her employer refused to pay her money owed when she wanted to quit after being beaten on the head with a stick, and threatened to bring the police to make her pay the fee the employer had paid to the broker.<sup>53</sup> Ira, who was fifteen when she began working as a domestic in Indonesia, said that when she told her employer she wanted to leave, her employer stopped paying her wages:

When I told her that I wanted to stop working, the female employer said, “No, [you] cannot leave.” Before that she paid me every month and then when I told her that I would leave, she stopped paying me. After that, she made me clean the bathroom two or three times a day, even when it was clean. She watched me clean the bathroom and made me scrub the walls. My hand would get tired and would dry out from being in the water too much.

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<sup>51</sup> Human Rights Watch interview with Adelyn Malana, Filipina domestic worker, age twenty-two, Singapore, February 21, 2005.

<sup>52</sup> Human Rights Watch interview with Santi Kartika, age eighteen, Kuala Lumpur, Malaysia, February 19, 2004.

<sup>53</sup> Human Rights Watch interview with Salwa L, Moroccan domestic worker, age nineteen, Casablanca, Morocco, May 27, 2005.

Ira was forced to work for another six months before she finally left.<sup>54</sup>

When domestic workers accrue excessively heavy debts with no reasonable way to pay them off, they may find themselves in situations akin to debt bondage. Asian workers wishing to migrate abroad for domestic work are typically charged a recruitment and placement fee that employment agencies deduct from their salary (agency fees are explained in greater detail in Chapter V, below). While this allows workers to migrate for employment without having to pay fees up front, deductions are often 90-100 percent of their salaries over the initial months of a contract, and as a result migrant domestic workers typically work for many months without ever receiving a wage. Amounts vary from country to country, with many Indonesians forced to forego the first six to ten months of their salary, and Sri Lankans and Filipinas typically handing over the first three to six months' salary to their labor agents. Additional fees, such as those charged for transferring employers—even in cases where domestic workers have faced considerable abuse—and penalties for failing to complete employment contracts, add to the debt. Women and girls who migrate through unlicensed labor agencies are even more likely to accrue debt, as they are often required to pay a substantial initial fee in addition to other charges, which they pay by taking out loans at often usurious rates.

In the case of Luz Padilla, a twenty-four-year-old Filipina working in Singapore, the combination of burdensome initial debt and her employment agent's practice of overcharging for transfers meant that her efforts to work off growing debt were futile and she had no foreseeable end to her debt payments. When Padilla transferred employers, she stayed at the employment agency for one month. She was charged S\$20 (U.S.\$12) per night, and by the end of the month owed S\$600 (U.S.\$354)—over one month's salary. She transferred once after that, but when she left the third employer after he forced her to clean two houses regularly, she ran away to a shelter. "If I go again to my agency, they will charge me S\$20 again. More debts. I work so hard, and then the salary goes to the agency... I have bad luck with employers, I try again and again. My debts are growing. My two years will be useless!"<sup>55</sup>

### ***International human rights law and government response***

International law proscribes forced labor and practices and institutions similar to slavery, such as debt bondage. The UDHR, the International Covenant on Civil and Political Rights (ICCPR), the ILO's Convention No. 29 concerning Forced or Compulsory

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<sup>54</sup> Human Rights Watch interview with Ira, child domestic worker, age fifteen at time of employment, Bekasi, Indonesia, December 18, 2004.

<sup>55</sup> Human Rights Watch interview with Luz Padilla, Filipina domestic worker, age twenty-four, Singapore, February 24, 2005.

Labour (Forced Labour Convention), and the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (Supplemental Slavery Convention) are the principal sources of international law that define and prohibit these practices.

The Forced Labour Convention defines forced or compulsory labor as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”<sup>56</sup> “Menace of any penalty” has been interpreted by the ILO to include: physical violence against a worker or close associates, physical confinement, financial penalties, denunciation to the authorities (police, immigration) and deportation, dismissal from current employment, exclusion from future employment, and denial of rights and privileges. Examples of involuntary nature of work include physical confinement in the work location, psychological compulsion (order to work backed up by a credible threat of a penalty), induced indebtedness (by falsification of accounts, inflated prices, excessive interest charges, etc.), deception about types and terms of work, withholding and non-payment of wages, and retention of identity documents or other valuable personal possessions.<sup>57</sup>

Forced labor is proscribed under national law in most countries. A notable exception is Saudi Arabia, despite the ILO’s repeated urgings that the Kingdom adopt a specific law making forced labor a criminal offense in keeping with its obligations under the Forced Labour Convention. Even where national laws do exist, Human Rights Watch has found that these are rarely enforced in cases involving domestic workers. Instead, labor officials receiving complaints tend to focus on one aspect, such as recovering unpaid wages, rather than examining the whole range of abuses suffered which, in their totality, may give rise to a case of forced labor.

Effective use of national laws can provide redress. Courts in the United States, for example, have convicted employers under the statute prohibiting involuntary servitude. In one case examined by Human Rights Watch, a Sri Lankan domestic worker won her case against her Kuwaiti employer in Boston for involuntary servitude. V.G. had been forced to work fifteen hours a day, seven days a week, denied medical treatment and adequate food, physically assaulted twice, and threatened almost on a daily basis with deportation, death or serious harm. The court found that V.G. “was not permitted to

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<sup>56</sup> ILO Convention No. 29 concerning Forced or Compulsory Labour (Forced Labour Convention), adopted June 28, 1930, 39 U.N.T.S. 55, (entered into force May 1, 1932), art. 2(1).

<sup>57</sup> ILO, *A Global Alliance Against Forced Labour: Global Report under the Follow-up to the ILO Declaration of Fundamental Principles and Rights at Work 2005*, International Labour Conference, 93<sup>rd</sup> Session, 2005, [online] [http://www.ilo.org/dyn/declaris/DECLARATIONWEB.DOWNLOAD\\_BLOB?Var\\_DocumentID=5059](http://www.ilo.org/dyn/declaris/DECLARATIONWEB.DOWNLOAD_BLOB?Var_DocumentID=5059) (retrieved June 4, 2005), p. 6.

use the telephone or the mails, speak with anyone other than the Alzankis [her employers], nor even to venture onto the balcony or look out the apartment windows. Appellant told [V.G.] that the American police, as well as the neighbors, would shoot undocumented aliens [illegal immigrants] who ventured out alone.”<sup>58</sup>

The U.N. Supplementary Slavery Convention defines debt bondage as “the status or condition arising from a pledge by a debtor of his/her personal service or those of a person under his/her control as security for a debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.”<sup>59</sup>

Governments have a positive obligation to abolish practices that may give rise to debt bondage. In recognition of the dangers of induced indebtedness of migrant domestic workers, the Philippines and Hong Kong require employers to pay round-trip airfare and most expenses associated with recruitment and placement.

In Singapore, however, minimally regulated competition among labor agencies has allowed them to shift the majority of recruitment and placement costs to domestic workers in order to lower costs for employers and boost their own profits.

The system of salary deductions common to the process of recruitment and placement of migrant domestic workers gives rise to further exploitation. Salary deductions of 90-100 percent over a period of months, as described above, place migrant domestic workers in a highly vulnerable position. Regulations in Hong Kong stipulate that no more than 10 percent of a migrant worker’s monthly salary can be deducted to pay off recruitment fees. While Singapore’s Employment Act limits salary deductions to 25 percent of the salary due per payment period, domestic workers are excluded from this protection.

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<sup>58</sup> U.S. v. Alzanki, 54 F.3d (1<sup>st</sup> Cir. 1995) at 999. If V.G. had gone out alone, she would not have been able to prove she had a legal work permit because her employer had confiscated her passport.

<sup>59</sup> U.N. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, adopted September 7, 1956, 226 U.N.T.S. 3 (entered into force April 30, 1957), art. 1.

## Trafficking

*There was a woman who came to the market to buy charcoal. She found me and told my mother about a woman in Lomé who was looking for a girl like me to stay with her and do domestic work. She came to my mother and my mother gave me away. The woman gave my mother some money, but I don't know how much.*

—Kéméyao A., child trafficking victim, age ten, Lomé, Togo, May 14, 2002

Women and girls recruited into domestic work may become victims of trafficking in persons. In its research on migrant domestic workers in various countries, Human Rights Watch met numerous women and children who had become victims of trafficking into forced labor. Trafficking includes all acts related to the recruitment, transport, transfer, sale or purchase of human beings by force, fraud, deceit, or other coercive tactics for the purpose of placing them into conditions of forced labor or practices similar to slavery, in which labor is extracted through physical or non-physical means of coercion, including blackmail, fraud, deceit, isolation, threat or use of physical force, or psychological pressure.<sup>60</sup> Migration and trafficking are interlinked, as traffickers often exploit the processes by which individuals migrate for economic reasons. Through corrupt government officials, unscrupulous labor agents, and poor enforcement of the law, economic migrants may be deceived or coerced into situations of forced labor or slavery-like practices.

Asian trafficking victims working in Malaysia and Saudi Arabia typically suffer severe forms of the workplace abuses described throughout this report. They are forced to work eighteen to twenty hours a day, locked in their workplaces from the outside, prevented from making phone calls, and never paid any wages. They often confront daily violence, endure poor living conditions and receive inadequate amounts of food. Employers and labor agents use threats and violence to keep them trapped in these situations.

In Malaysia, Human Rights Watch interviewed nine women and girls who had been trafficked into forced labor. Some had been promised jobs in domestic work but ended up working in restaurants, retail stores or on food stalls without any payment of wages; others ended up as domestic workers, again without payment of wages, although they

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<sup>60</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention on Transnational Organized Crime (Trafficking Protocol), adopted November 15, 2000, G.A. Res. 55/25 (entered into force December 25, 2003).

had been assured other types of employment. For example, Riena Sarinem was promised a job taking care of an elderly person, but upon arrival in Malaysia, was additionally forced to work in a shop and to clean a second house. She began her work at 4:30 a.m and finished between 11:30 p.m. and 1:00 a.m. She said:

There was no time off. I was never allowed to use the phone or write a letter.... They never allowed me to walk out of the house. For the family, the principle was that I work and work and work and don't have time to rest.... I tried to kill myself, because I couldn't stand my employer. When that happened....the agent asked whether I wanted to continue working or go back to Indonesia. I said Indonesia. The agent said if you go back, you get no money. The agent said he would send me home...but when we arrived in Kuala Lumpur, he said that immigration would only let me leave Malaysia on March 19, 2004. Now I know that is actually the expiration date for the visa, not [a government requirement, but I didn't know that then. In the meantime, my employer made me work temporary jobs]..... They would pay me, but the agent took the money.... I never got a salary in all fourteen months.<sup>61</sup>

In research on trafficking of Togolese girls into domestic and market work, Human Rights Watch interviewed forty-one girls trafficked when they were between the ages of three and seventeen. Thirteen had been trafficked internally, while the rest were trafficked across borders to Benin, Gabon, Ghana, Nigeria, and Niger. All of the girls Human Rights Watch interviewed were from poor agricultural backgrounds with little or no formal schooling whose parents handed them over to known or unknown intermediaries, sometimes for a price, with the understanding they would be receiving formal education, professional training or paid work. Instead, the girls' descriptions of being recruited, transported, received and exploited revealed a pattern of abuse resembling child slavery. Almost none received any remuneration for her work.

Assoupi H., a sixteen-year-old Togolese domestic worker, was trafficked when she was only three years old. Her employer, she said, "told my mother she would put me in school, but she gave birth to twins and told me I had to help her look after the children until they were old enough for school. I was only three years old, but I carried her babies and held them for her." By the time her children reached school age, Assoupi's employer was pregnant with twins again. "She asked me to take care of them, too," Assoupi recalled. "I had to fetch water for the house, sweep, wash the dishes and wash clothes. I

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<sup>61</sup> Human Rights Watch interview with Riena Sarinem, Indonesian domestic worker, age thirty, Kuala Lumpur, Malaysia, February 25, 2004.



would bathe the children, cook for them and wash their clothes. When they were young, they cried a lot.”<sup>62</sup>

Kafui A. was eleven when her mother sent her to Lomé to work as a domestic servant. “I didn’t want to go,” she told HRW. “I knew that when people brought children there, they mistreated them. My mother told me I would be going to stay with a relative and she would not mistreat me.”<sup>63</sup> In reality, Kafui was kicked and beaten regularly by her employer’s son, and on at least one occasion her employer beat her and threatened to beat her to death.<sup>64</sup>

### *International human rights law and government response*

International law prohibits trafficking in persons. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime (“Trafficking Protocol”) defines trafficking as:

the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.<sup>65</sup>

Where a child is involved, trafficking can exist in the absence of coercion, abduction, fraud or deception.<sup>66</sup> Child trafficking is prohibited not only under the Trafficking Protocol, but also the Convention on the Rights of the Child and the Worst Forms of Child Labour Convention. The CRC obligates states parties to “take all appropriate national, bilateral and multilateral measures to prevent the abduction, the sale of or traffic in children for any purpose or in any form.”<sup>67</sup> The ILO considers a child to be

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<sup>62</sup> Human Rights Watch interview with Assoupi H., child trafficking victim, age sixteen, Lomé, Togo, May 15, 2002.

<sup>63</sup> Human Rights Watch interview with Kafui A., child trafficking victim, age thirteen, Lomé, Togo, May 15, 2002.

<sup>64</sup> *Ibid.*

<sup>65</sup> Trafficking Protocol, art. 3.

<sup>66</sup> Trafficking Protocol, art. 3(c).

<sup>67</sup> CRC, art. 35.

trafficked into domestic labor when she is “obliged to leave her... home village to go to the city to find work and who is recruited into domestic service where the conditions are exploitative (for example, the child is ‘paid’ in food and lodging rather than receiving a wage).” The ILO explains that even if the relocation element of trafficking is voluntary, if the domestic service is exploitative and satisfies any of the criteria for the worst forms of child labor, then the child is considered to be trafficked and the employers are traffickers under international law.<sup>68</sup>

The Supplementary Slavery Convention defines as a practice similar to slavery “any institution or practice whereby a child or young person under the age of eighteen years, is delivered by either or both of his natural parents or by his guardian to another person, whether for reward or not, with a view to the exploitation of the child or young person or of his labour.”<sup>69</sup>

In the countries surveyed in this report, government efforts to combat trafficking, where they exist, have largely focused on trafficking into sex work. In Malaysia, for example, the National Human Rights Commission has thus far done little to identify or provide remedies to women and girls trafficked into other forms of forced labor. Neither Indonesia nor Malaysia has specific, comprehensive anti-trafficking legislation. As noted below, Indonesia’s time-bound programs in cooperation with the ILO address children trafficked for prostitution but not domestic work.

Addressing the role of employment agencies and informal recruitment is key to preventing trafficking into domestic work. As of January 2006, the Moroccan government was still in the process of finalizing a ten-year National Plan of Action on Childhood that will reportedly address the role of brokers in trafficking of child domestics. In Asia, some governments have made bilateral agreements to implement standard employment contracts and to outline recruitment procedures. However, despite the large flows of migrants from Indonesia, Nepal, the Philippines, and Sri Lanka to countries elsewhere in Asia and in the Middle East, there has been little attempt by regional bodies to create minimum regional standards.

Togo adopted a specific law criminalizing child trafficking in July 2005. Prior to this law, Togo relied on related offenses such as unauthorized migration of children, forced labor, fraudulent entry into national territory, and kidnapping. Despite evidence that trafficking

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<sup>68</sup> ILO-IPEC, *Helping Hands or Shackled Lives: Understanding Child Domestic Labour and Responses to it* (Geneva: ILO, 2004), p. 12.

<sup>69</sup> U.N. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, art. 1(d).

of girls into domestic and market labor within and from Togo is a serious problem, efforts to date to prosecute child traffickers under prior legislation have been minimal. In 2001, for example, ten traffickers were arrested or detained, only to be released in most cases for lack of evidence. Under the new law, traffickers face up to five years in prison and fines ranging from 500,000 to 10 million CFAs (U.S.\$1,000-20,000). If the child is subject to violence, disappears or dies, the prison sentence is doubled to ten years. Togo's reintegration and rehabilitation efforts rely exclusively on cooperation with local NGOs and fall short of international standards for return and reintegration of trafficked children.

## ***Recommendations***

### ***To the Police, Attorney General's Offices, and the Judiciary***

- Create confidential, fully staffed and toll-free hotlines to receive reports of abuses against women and girl domestic workers. Widely disseminate the hotline number through print media, radio and television. Such hotlines should be created in consultation with local NGOs, relevant government ministries or agencies charged with women's rights and children's rights, and the police.
- Develop protocols and train police officers on how to respond to domestic workers' complaints appropriately, how to investigate and collect evidence in such cases, and to provide referrals for health care, counseling, shelter, legal aid, and in the case of migrant domestic workers, their embassies.
- Prosecute perpetrators of physical violence, sexual violence, and those who unlawfully confine women and girl domestic workers.
- Investigate, prosecute and punish perpetrators of forced labor and trafficking in women and children into forced domestic work.
- Support mass information campaigns to raise awareness about risk factors for trafficking.
- Promptly investigate, prosecute and punish perpetrators of trafficking in women and children, using existing penal laws until targeted anti-trafficking legislation is enacted.
- Fully implement national laws on domestic violence and violence against children to prosecute those who abuse domestic workers and who economically and sexually exploit children, including child domestic workers.
- Collaborate with local NGOs to provide women and girl domestic workers withdrawn from abusive and exploitative workplaces safe shelter, and determine

ways to reintegrate child domestic workers with their families, taking into account the best interests of the child.

- Provide for the rehabilitation of domestic workers who have suffered physical, psychological or sexual abuse.
- Expedite criminal cases involving migrant domestic workers, who must often wait for a resolution for several months or years while confined in their embassy or a shelter. Ensure they have legal permission to work during the interim period.
- Ensure that migrant domestic workers are provided translation in their native language to ensure they understand all police and court procedures.

### *To Heads of State and Government, and Parliaments*

- Ratify and comply with the requirements of ILO Convention No. 29 on Forced Labour and make the use of forced or compulsory labor a specifically defined criminal offense.
- Ratify the U.N. Protocol to the Convention against Transnational Organized Crime to Prevent, Suppress and Punish the Trafficking of Persons, Especially Women and Children, and the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography.
- Promptly enact legislation creating the offense of trafficking, consistent with the above protocols as well as with the U.N. Convention on the Elimination of Discrimination against Women, the U.N. Convention on the Rights of the Child and International Labour Organization Convention No. 182 and Recommendation No. 190 concerning the Prohibition and Immediate Action on the Elimination of the Worst Forms of Child Labour.

### III. Exclusion from labor laws

*It was necessary to include domestic service in the labor code because not to do so would have been unjustified, but to give them the same treatment as industrial or commercial workers would have constituted an even bigger mistake, which would have created a general animosity toward the labor code among thousands of housewives. Remember that the domestic worker becomes a part of the family, which does not happen with any other type of workers.*

—Oscar Barahona Streber, author of Guatemala’s 1947 labor code<sup>70</sup>

Governments around the world have failed to acknowledge the rights of domestic workers perhaps most egregiously by systematically excluding these workers from key labor protections afforded to most other categories of workers under national laws. Such rights include guarantees of a minimum wage, overtime pay, rest days, annual leave, fair termination of contracts, benefits, and workers’ compensation. This exclusion denies domestic workers equal protection under the law and has a discriminatory impact on women and girls, who constitute the vast majority of this category of workers.

Disregard for the labor rights of paid domestic workers is directly linked to the status of women. Domestic work is considered the natural extension of women’s role in the family and society. Paid domestic workers essentially perform for wages the tasks the woman of the house is socially expected to perform for free. In countries such as Guatemala, where the disproportionate majority of domestic workers are indigenous women, gender discrimination is compounded by racial and ethnic discrimination.

The failure properly to regulate paid domestic work facilitates egregious abuse and exploitation, and means domestic workers have little or no means for seeking redress. Women and girls employed in private households encounter a wide range of human rights violations in the workplace, including extremely long hours of work without a guaranteed minimum wage or overtime pay; no rest days; incomplete and irregular payment of wages; unsafe working conditions; lack of proper health care; no workers’ compensation; and job insecurity. Inadequate monitoring by any independent or government agency compounds these abuses by creating an environment of impunity for employers.

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<sup>70</sup> Comment provided to Human Rights Watch by fax by Oscar Barahona Streber, San José, Costa Rica, November 29, 2000.

## **Wage exploitation**

*I left home when I was fifteen. I was told by an agent that I would be sent to Malaysia, but was placed in another house in Tanjungpinang [Indonesia]. I woke up at 4:15 a.m.... I was exhausted when I went to sleep at 10 p.m.... I only had five minutes' rest. I did not get any day off. I did not get any salary. I worked there five months.*

—Asma, child domestic worker, age sixteen, Medan, Indonesia,  
December 13, 2005

## **Minimum wage and overtime pay**

Domestic workers are almost always grossly underpaid for the long hours they are required to work. Denied by law the right to a minimum wage and overtime pay in most countries, domestic workers usually earn well below service sector minimum wages and prevailing wages for comparable work typically performed by men, for example gardening and driving. Child domestic workers, and women and girls who have traveled abroad to find work are at a particular disadvantage because of their relative inability to negotiate a decent wage. Employers, labor agents, and even government authorities often justify low wages by claiming women and girls earn more than they would at home, and that expenses for food and lodging must be factored in to arrive at the real wage. However, official guidelines for calculating deductions and minimum quality standards for food and accommodation are usually lacking. In these conditions, the provision of (often sorely inadequate) food and lodging is used as an excuse for labor exploitation.

Human Rights Watch has collected detailed information about earned wages from domestic workers in numerous countries. Accounting for the average number of hours worked per day, hourly wages for domestic workers are consistently well below the national minimum wages. Younger girls typically earn less than older child domestic workers. In Guatemala, if domestic workers were entitled to the non-agricultural minimum wage and overtime pay, they would have to earn over double what the average domestic worker interviewed by Human Rights Watch actually earned. In Singapore, where there is no national minimum wage, migrant domestic workers earn a fraction of the wages of Singaporean workers in comparable occupations, such as gardening and cleaning. Employment agencies assign different wages based on national origin, with Indonesian and Sri Lankan workers earning significantly less than Filipina domestic workers.

Even where regulations do exist with respect to minimum wage and allowable deductions for food and lodging, these are not respected. In the United States, for example, live-in domestic workers are covered by the Fair Labor Standards Act (FLSA) minimum wage requirements. Yet in forty cases examined by Human Rights Watch, the median hourly wage received by workers was U.S.\$2.14—less than half the federal minimum hourly wage. In several cases, women signed a contract before traveling to the United States, only to find their monthly wages dramatically reduced once they began working. Liliana Martínez, for example, a Peruvian domestic worker employed by a representative to a mission to the Organization of American States in Washington D.C., recalled that when she arrived in the U.S., her employer’s wife said that the contract she had signed for U.S.\$800 a month was “only for the eyes of the *gringos* [U.S. citizens],” and that she was going to pay her U.S.\$300 instead because “in Peru that is a lot of money.”<sup>71</sup>

### ***Wage withholding and unpaid wages***

Many domestic workers never receive all of their meager salaries. Unpaid wages is one of the most frequent complaints made by domestic workers across countries. In Morocco and Indonesia, we found that employers commonly withhold wages from child domestic workers, especially before a religious feast or annual leave, to ensure the girls will return. Migrant domestic workers in the Middle East and Asia are extremely vulnerable to withholding and nonpayment of salary, as well as arbitrary and illegal deductions from their salaries. A study by the Asian Migrant Centre found that 42 percent of Indonesian domestic workers in Hong Kong were underpaid.<sup>72</sup>

Samira M., a sixteen-year-old Moroccan domestic worker, explained her experience:

I have worked in four or five houses. They wouldn’t give us the money when it came time for `Eid [religious holiday]. I would go home for `Eid and not come back because of the bad treatment. When I would go home they wouldn’t give me all the salary owed me, for example they wouldn’t give me the last month or two months or one-and-a-half months.<sup>73</sup>

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<sup>71</sup> Human Rights Watch telephone interview with Liliana Martínez, Peruvian domestic worker, Washington D.C., United States, April 17, 2000.

<sup>72</sup> Asian Migrant Centre, “Systematic Extortion of Indonesian Migrant Workers in Hong Kong,” [online] [http://www.asian-migrants.org/index.php?option=com\\_content&task=view&id=4&Itemid=29](http://www.asian-migrants.org/index.php?option=com_content&task=view&id=4&Itemid=29) (retrieved April 6, 2006).

<sup>73</sup> Human Rights Watch interview with Samira M., child domestic worker, age sixteen, Casablanca, Morocco, May 17, 2005.

Lastri, a fifteen-year-old Indonesian girl, told Human Rights Watch she felt “trapped” because her employer would not pay her monthly salary of Rp. 250,000 (U.S.\$27.77). She recalled, “I told my employer that I wanted to go home but she forbade me. I told her that I wanted to resign. The employer got angry at me. She had my money and would not pay me if I left.”<sup>74</sup>

Employers sometimes substitute “allowances” for real wages, especially for girl domestic workers. Several girl domestic workers in Morocco interviewed by Human Rights Watch did not receive salaries, but rather small sums of spending money once a week, usually between 5 and 10 dh (U.S.\$0.55-1.10). Shadia A. described her second job as a domestic worker at age fifteen: “They didn’t give me my salary and they said they would hold it for me. I didn’t get paid for eight years... In the beginning they would give me 5 dh a week, then 10 dh a week, then at the end 30 dh a week (U.S.\$0.55, \$1.10 and \$3.31, respectively)... One day I decided to leave and they didn’t give me any of my salary.”<sup>75</sup>

In Malaysia, employers commonly pay migrant domestic workers only upon completion of the standard two-year contract, as a ploy to prevent them from running away or reporting abuses. When domestic workers do receive payment, it is often not the agreed-upon amount. Of the fifty-one Indonesian domestic workers interviewed by Human Rights Watch in Malaysia, twenty-six did not receive their full salary, twelve received no salary at all, and most of the others were still working and hoping to get their salary at the end of their two-year contracts. Reforms pending at the time of writing would require employers to pay domestic workers monthly.

Edna, a thirty-year-old Filipina, worked for two years in conditions of forced confinement in Dammam, Saudi Arabia. When her employer took her to the airport at the end of her two-year contract, she was astonished that he handed her only a fraction of her owed salary. When she demanded the rest of her salary, her employer said they had deducted roughly half of what they owed her for the plane ticket, which is illegal. Intimidated, and having no options at the airport, Edna felt she had no alternative but to leave.<sup>76</sup>

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<sup>74</sup> Human Rights Watch interview with Lastri, child domestic worker, age fifteen, Yogyakarta, Indonesia, December 2, 2004.

<sup>75</sup> Human Rights Watch interview with Shadia A., child domestic worker, age fifteen at time of employment, Casablanca, Morocco, May 27, 2005.

<sup>76</sup> Human Rights Watch interview with Edna, Filipina domestic worker, age thirty, Quezon City, Philippines, December 21, 2003.



## **Rest days**

*Sister, we are human. We need to take a day off.*

—Rita Yuboc, Filipina domestic worker, age twenty-four, Singapore,  
February 21, 2005

For many domestic workers a weekly day of rest is at best a sporadic concession granted by employers rather than a right guaranteed by law. Indeed, it is common for employers to require their domestic workers to labor seven days a week for months, even years, on end. The vast majority of women and girl domestic workers interviewed by Human Rights Watch did not have a regular day of rest. Employers and labor agencies tend to justify denying domestic workers a day off in the name of protection, helping them to save money, preventing them from seeking a second job, or preventing them from establishing relationships with men and becoming pregnant.

Even in countries where the law clearly gives domestic workers the right to one day off per week, such as El Salvador, lack of government oversight and the vulnerability of domestic workers, especially young girls and migrants, combine to give employers carte blanche. Seventeen-year-old Flor N., for example, worked thirteen hours a day as a domestic worker in El Salvador and enjoyed a day off only once a month.<sup>77</sup> In neighboring Guatemala, the labor code stipulates that a domestic worker can only be required to work eight hours on Sundays and national holidays; this means domestic workers can in fact be required to work eight hours on these days, in other words the number of hours in the normal workday for most other Guatemalan workers. Although it is customary in Guatemala to give domestic workers a day of rest on Sundays, Human Rights Watch documented several cases in which this practice was not respected. In a particularly egregious case, Daniela Santos Pérez worked for five years in the same household, beginning at age fourteen, and had only one day off during that entire time.<sup>78</sup>

Labor agents placing migrant domestic workers have enormous influence over the terms of these workers' contracts, often at the expense of domestic workers' rights. In Singapore, for example, several labor agents told Human Rights Watch that they use a standard model contract stipulating just one day off per month, but counsel employers to deny rest days until the first six months of employment have finished. In other cases, labor agents obligate migrant domestic workers to sign contracts that do not provide for

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<sup>77</sup> Human Rights Watch interview with Flor N., child domestic worker, age seventeen, San Salvador, El Salvador, February 18, 2003.

<sup>78</sup> Human Rights Watch interview with Daniela Santos Pérez, Guatemalan child domestic worker, age fourteen at time of employment, Guatemala City, June 11, 2000.

a day off. Marites Padilla echoed the experience of many domestic workers when she explained, “I signed a contract for 340 dollars [per month] with no day off. The agents didn’t give me a choice about the day off.”<sup>79</sup> Most contracts for Indonesian domestic workers in Malaysia stipulate one day off per week or a salary commensurate with a seven-day workweek. With only a few exceptions, the Indonesian domestic workers Human Rights Watch interviewed in Malaysia had monthly salaries based on a six-day workweek but worked every single day without rest.

### **Long hours and workloads**

*I worked for a husband, a wife, two girls and a boy... Sometimes I didn't sleep. I washed clothes, prepared food for the children, and prepared them for school, one by one. I would prepare milk for the youngest and prepare food for cooking. I would vacuum, mop, clean the kitchen and water the flowers. Sometimes the employer was not satisfied and would ask me to redo it over again and again. My time was wasted by doing the work over and over again. I helped to cook all the meals, and I cleaned the toilets. I was working day and night. I am not sure when I finished, because she would ask me to redo the jobs many times... Sometimes the employer said, "If you can't finish, you can't sleep." I never got any rest or any days off.*

— Ani Rukmono, Indonesian domestic worker, age twenty-one, Kuala Lumpur, Malaysia, February 26, 2004

Domestic servants work long, often unpredictable hours performing back-breaking tasks: fetching water, washing clothes (often by hand), ironing, washing dishes, scrubbing and mopping floors, dusting, shopping, cooking, making beds, washing windows, walking dogs, and caring for children and the elderly, among other tasks. In some countries, the chores are particularly arduous. Girls we spoke with who had been trafficked from Togo into domestic work told of baking bread at night until the early hours of the morning and pounding *fufu*—using a large mortar and pestle to mash yams or cassava vigorously into a doughy paste for sixteen hours a day.

Most domestic workers toil between fourteen and eighteen hours a day with rare, often stolen, moments for rest. In interview after interview, in countries in Africa, the Americas, the Middle East, and Asia, domestic workers have spoken to Human Rights Watch of a relentless onslaught of work obligations that take “all day” with “no rest.” The manner in which these women and girls describe their typical work day conveys

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<sup>79</sup> Human Rights Watch interview with Marites Padilla, Filipina domestic worker, age twenty-nine, Singapore, March 9, 2005.

their exhaustion. Mónica F., a seventeen-year-old domestic worker in El Salvador, described her day like this:

At 5:30 a.m. I would get up and prepare breakfast and serve it. Then the *señora* [female employer] would leave and I would clean, feed the child breakfast, and then I would have breakfast at around 9 a.m. The girl was six-and-a-half years old. Then I would wash the clothes for all of the family. Then I would get the child a snack, then mop, then fix lunch, then bathe the child, then mop. I would mop three times a day. Then [I would] serve lunch, then clean the bathrooms, then straighten the rooms, then give the child a snack, then watch the child, then clean; then I would cook dinner... After dinner I would wash the dishes and then iron into the night.<sup>80</sup>

Those caring for young children are called upon to work around the clock. Dita Wulansih, a twenty-two-year-old Indonesian domestic worker employed in Singapore, took care of a two-and-a-half-year-old boy and a three-week-old girl:

“I had to look after the baby, clean the house, cook. I started work at 6 a.m. and went to bed at 1 a.m... if the baby woke up at night, I had to wake up too. During the day I had to stop my work to take care of her. I did everything... I got no sleep...”<sup>81</sup>

In some cases, domestic workers are required to work in their employer’s shop or business in addition to performing their established duties in the household. For instance, girls trafficked from rural villages in Togo to Lomé, the capital, and to neighboring countries frequently do myriad tasks in addition to all the housework, such as selling merchandise in markets, baking bread, grilling meat at roadside stands, or working in small shops or boutiques. At age eleven, Kafui A. was taken to Lomé to work for a woman she had never met before. She was woken every day at 4 a.m. to do the housework, and then sent to the market to sell second-hand clothes all day.<sup>82</sup> Human Rights Watch documented several cases in Malaysia and Singapore where employers forced migrant domestic workers to perform additional labor. In addition to cleaning two residences and her employer’s factory, Rita Yuboc, a Filipina domestic worker in

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<sup>80</sup> Human Rights Watch interview with Mónica F., child domestic worker, age seventeen, San Salvador, El Salvador, February 18, 2003.

<sup>81</sup> Human Rights Watch interview with Dita Wulansih, Indonesian domestic worker, age twenty-two, Singapore, February 19, 2005.

<sup>82</sup> Human Rights Watch interview with Kafui A., child trafficking victim, age eleven, Lomé, Togo, May 15, 2002.

Singapore, was made to work in a factory daily.<sup>83</sup> Aisyah Fatah, an Indonesian domestic worker in Singapore, had to help her employer operate a laundry business out of the home.<sup>84</sup>

### **Workers' compensation**

*[She] fell over, about three years ago. She stood on the kitchen ledge. She slipped and fell four floors.... Employers scream if the windows are not shining. She was in the hospital for two months.*

—Diplomat, Sri Lanka High Commission, describing a workplace injury, Singapore, February 18, 2005

Domestic workers routinely engage in tasks that pose risk of injuries or long-term health problems. These include heavy lifting; bending; handling toxic cleaning chemicals, hot water, oil and irons; repetitive movements; and prolonged exposure to dust. Yet domestic workers who suffer injuries on the job or work-related illnesses often have no means to seek compensation or redress for the harm suffered. Excluded from workers' compensation schemes in most countries, injured and ill domestic workers can only trust—often in vain—in the kindness of their employers.

In Singapore, where at least 147 migrant domestic workers died between 1999 and 2005, hazardous working conditions contributed to a portion of these deaths (suicide is the likely cause of many others). The most dangerous tasks include cleaning the outside of windows from precarious ledges (as in the case described above), and hanging wet clothes from poles out of high windows from unsafe positions. Employers in Singapore are required to take out personal injury insurance for foreign domestic workers, and in cases of accidents, the insurance may provide a lump sum payment to the worker. This system, although far better than what exists in many other countries, is not always adequate to cover medical costs or compensate the victim, however. In one case, a domestic worker fell three floors when hanging laundry and suffered spinal injuries and several broken bones. She was not able to walk for ten months after the accident. The insurance covered her initial hospital stay, but her own family has had to pay for subsequent medical care.<sup>85</sup>

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<sup>83</sup> Human Rights Watch interview with Rita Yuboc, Filipina domestic worker, age twenty-four, Singapore, February 21, 2005.

<sup>84</sup> Human Rights Watch interview with Aisyah Fatah, Indonesian domestic worker, age twenty-one, Singapore, March 4, 2005.

<sup>85</sup> Sim Chi Yin, "Still can't walk after 10 months," *The New Paper*, February 20, 2004.

Girl domestic workers are at particular risk of workplace injuries and long-term health consequences of working long hours performing tasks that surpass their physical stamina (see below, Chapter IV).

### **Health care and maternity leave**

*When I got sick they said, “you are lying, you aren’t sick!” and they didn’t give me any medicine and I had to work anyway.*

—Najat Z, age eleven, domestic worker, Marrakech, Morocco, May 20, 2005

The vast majority of domestic workers do not enjoy any employment benefits such as health care and maternity leave. While individual employment contracts could theoretically remedy the failure of national labor laws and work permit regulations to guarantee domestic workers these benefits, they rarely do. Domestic workers rarely have written contracts, or, as in the case of Asian migrant workers, typically have vague and poorly enforced employment contracts through labor agencies or national embassies.

### **Health care**

Lack of health insurance, grossly inadequate wages, and separation from family and other support networks leave most domestic workers dependent on their employers for medical care. In reality, many domestic workers never receive adequate medical attention or treatment, even for work-related injuries, and are often required to continue working while ill. When employers do take their domestic workers to a doctor for treatment, they often deduct the costs of the visits and medicine from the workers’ wages. Flor Montales, a Filipina domestic worker in the United Arab Emirates, told us, “If I got sick, [my employer] would tell me, ‘why did you come here if you get sick?’”<sup>86</sup>

In Morocco, only one of the fifteen current and former girl domestic workers we interviewed had been taken to a doctor, and her employer deducted the cost of the medicine from her salary. More typical were girls who were given non-prescription medicine but not taken to the doctor, and girls who received no medical attention at all. Zahra H. said that when she became sick on her recent job, “I kept working. They

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<sup>86</sup> Human Rights Watch interview with Flor Montales, Filipina domestic worker, age thirty-eight, Dubai, UAE, February 27, 2006.

would say I was a liar. I would get very sick and tired during Ramadan because of fasting and because there was lots of cooking and dishes to wash.”<sup>87</sup>

Employers are no more likely to ensure adequate medical treatment for injuries sustained on the job. A young domestic worker in Indonesia, Vina, told us, “When I was cooking, the oil splashed on my left arm. The employer gave me toothpaste to apply. She said that it will work. It became red and a blister developed. The toothpaste hurt when I used it. She said that I don’t need to see a doctor.”<sup>88</sup> When Jesica Gutierrez, a Guatemalan domestic worker, fell and sprained her ankle at work, her employer at first refused to take her to the hospital despite the fact that she was crying from the extreme pain. Jesica continued to insist, and the employer finally took her to the hospital and paid the bills. But once she was back at the household, her employers expected her to resume her cooking and other duties immediately: “They told me I wasn’t going to die, that I could manage, that I could clean even if I had to do it slowly.”<sup>89</sup>

Domestic workers who suffer injuries at the hands of their employers may be able to seek medical treatment if they run away. Workers described employers laughing when they asked to see a doctor after the employer had injured them. For example, fifteen-year-old Asma in Indonesia told us, “[My employer] hit me when she was angry. Three times she hit me. Once she slapped my face and then kicked me above my right hip. It hurt and swelled up. I did not go to the doctor. She laughed when I asked to see a doctor.”<sup>90</sup>

### ***Maternity leave***

Domestic workers rarely enjoy any rights to maternity leave. Indeed, in most cases we documented, domestic workers who became pregnant lost their jobs.

In Guatemala, domestic workers who become pregnant are either fired, or kept on only until the pregnancy begins to impede carrying out her duties, or until the birth of the baby. Only one domestic worker we spoke with had had her employer pay for her prenatal care. Pregnant workers can sometimes face pressure to give up the baby in order to keep their jobs. Julia Domingo, a twenty-one-year-old indigenous woman, was

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<sup>87</sup> Human Rights Watch interview with Zahra H., child domestic worker, age seventeen, Casablanca, Morocco, May 17, 2005.

<sup>88</sup> Human Rights Watch interview with Vina, child domestic worker, age thirteen at time of employment, Medan, Indonesia, December 15, 2004.

<sup>89</sup> Human Rights Watch interview with Jesica Gutierrez Garcia, Guatemalan domestic worker, age twenty-three, Guatemala City, June 18, 2000.

<sup>90</sup> Human Rights Watch interview with Asma, child domestic worker, age fifteen, Medan, Indonesia, December 13, 2004.

near the end of her pregnancy when we spoke with her. She said her employer pressured her to give the baby up for adoption: “She gave me the advice that I should give up my child to people who can’t have children, so the child would grow up better.” Julia, who was never able to study and is illiterate, had asked her employer to help her get identification documents, but her employer refused unless she complied and put the baby up for adoption. When Julia refused, her employer threw her out late one night, telling her she was a “useless Indian.”<sup>91</sup>

As discussed in more detail in Chapter V, immigration policies in countries like Singapore and Malaysia deny entry to prospective migrant workers found to be pregnant, and stipulate termination of employment contracts and repatriation if they become pregnant once employed. Far from granting maternity leave, these government regulations contribute to restrictions on domestic workers’ movements, and if they become pregnant, they must return home or terminate the pregnancy.

### ***Termination of contracts***

Domestic workers rarely enjoy any measure of job security and may often be dismissed at a moment’s notice. For migrant domestic workers, dismissal often means immediate repatriation, with no access to redress for abuses and sometimes without payment in full of their wages. Several Indonesian domestic workers who had been employed in Malaysia told Human Rights Watch they were immediately sent home after telling their female employer about sexual harassment or abuse by male members of the household. They had no opportunity to complain to the police or their embassy. Some received their wages, others did not.

In Singapore, Malaysia, Saudi Arabia, and the United Arab Emirates, where work permit regulations allow employers to repatriate migrant domestic workers at will or deny them transfers to other employers, domestic workers are less able to demand just treatment and may stay in jobs with abusive conditions. Employment agencies foster employer impunity by offering “package” deals that include a domestic worker at a set wage and a “free replacement” if there are problems. For women who have accrued debt to migrate for work or feel acute pressure to earn money for their families back home, the prospect of repatriation upon dismissal significantly weakens any bargaining power they might have.

Anita, a twenty-seven-year-old Filipina, was dismissed after working for three months in a large household in Jeddah, Saudi Arabia. Her employer told her, “I don’t like you

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<sup>91</sup> Human Rights Watch interview with Julia Domingo, Guatemalan domestic worker, age twenty-one, Guatemala City, Guatemala, June 4, 2000.

anymore and I'm sending you back to the Philippines." The recruitment agency in Jeddah that had placed her required her to write and sign a letter stating that she was returning to her country voluntarily and that the agency was free of any liability, in return for an exit visit and a ticket to the Philippines. She had no recourse to complain about the conditions of her employment or the circumstances of her dismissal.<sup>92</sup>

### ***Inadequate living conditions***

*I slept without a mattress or a pillow on the floor of the storeroom.*

—Muriyani Suharti, Indonesian domestic worker, age twenty-two, Singapore, March 8, 2005

*I slept in the kitchen on a sheet.*

—Rasha A., child domestic worker, age ten, Marrakech, Morocco, May 20, 2005

Many domestic workers are provided substandard, unhealthy and unsafe sleeping quarters with no regard for their dignity, privacy or personal security. Migrant domestic workers in Singapore told Human Rights Watch of being forced to sleep in storerooms, laundry rooms, closets, or common living areas such as the living room, kitchen or hallway. Indonesian domestic workers in Malaysia spoke of sleeping in kitchens, bathrooms, even on staircases.

Child domestic workers in Indonesia and Morocco recounted appalling situations. Lastri, a fifteen-year-old Indonesian domestic worker, slept in an open garage sheltered only by a curtain,<sup>93</sup> while Rohani, also Indonesian, said when she was fourteen she slept in a storage room, describing it “as a room for a domestic worker as you can imagine. There was no window. There were boxes in the room and old newspapers.<sup>94</sup> I kept my belongings in a suitcase.” Sixteen-year-old Moroccan Samira M. explained that in her last job, “I slept in a storage room under the stairs. It had been a bathroom and had a bad

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<sup>92</sup> Human Rights Watch interview with Anita, Filipina domestic worker, age twenty-seven, Naguilan, La Union, Philippines, December 13, 2003.

<sup>93</sup> Human Rights Watch interview with Lastri, child domestic worker, age fifteen, Yogyakarta, Indonesia, December 2, 2004.

<sup>94</sup> Human Rights Watch interview with Rohani, child domestic worker, Semarang, Indonesia, December 6, 2004.



smell coming from the drain. It was very small, my feet would hit the door when I slept.”<sup>95</sup>

Some domestic workers may be locked into their unsafe sleeping quarters at night. Rosalia, a thirty-five-year-old Filipina worked in a household in Saudi Arabia for five months. Between 2 a.m. and 8 a.m. every night, she was locked in a room with no windows, air conditioning or fan.<sup>96</sup> The personal safety of other workers is placed at risk because they do not have a lock on the door, must share a room with adult males, or are forced to sleep in common living areas, leaving them vulnerable to sexual harassment and assault. Dwiyani, an Indonesian domestic worker in Singapore, explained she had to share a room with her employer’s children, a twenty-six-year-old male and a seventeen-year-old girl. “When I was at the agent’s office, I was told that both were female. At first I was very afraid. When I was asleep, the boy [twenty-six-year-old male] slept next to me, but nothing happened.”<sup>97</sup>

## ***International labor standards and government response***

### ***The right to just and favorable conditions of work***

International human rights law protects a spectrum of workers’ rights. The UDHR provides that everyone has the right to rest and leisure, including reasonable limitation of working and periodic holidays with pay, as well as the right to just and favorable remuneration to ensure “an existence worthy of human dignity.”<sup>98</sup> The ICESCR reiterates these rights in recognizing the right of all persons to just and favorable conditions of work.<sup>99</sup>

The ILO has developed a robust body of conventions dealing with virtually every aspect of workers’ rights. These include Convention No. 95 on the Protection of Wages, which specifies that wages should be paid directly and regularly to workers, and that workers should be informed of the conditions of payments before beginning employment; Convention No. 155 concerning Occupational Safety and Health; Convention No. 111 concerning Discrimination in Respect to Employment and Occupation, which prohibits discrimination on the basis of sex with respect to access to employment and conditions

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<sup>95</sup> Human Rights Watch interview with Samira M., child domestic worker, age sixteen, Casablanca, Morocco, May 17, 2005.

<sup>96</sup> Human Rights Watch interview with Rosalia, Filipina domestic worker, age thirty-five, Quezon City, Philippines, December 16, 2003.

<sup>97</sup> Human Rights Watch interview with Dwiyani, Indonesian domestic worker, age twenty, Singapore, February 22, 2005.

<sup>98</sup> UDHR, arts. 23 and 24.

<sup>99</sup> ICESCR, art. 7.

of employment; and the Maternity Protection Convention 2000 (No. 183) guaranteeing women workers—and explicitly domestic workers—the right to maternity leave.<sup>100</sup>

### ***Freedom from discrimination***

All of the countries discussed in this report exclude domestic workers from key labor rights and protections. Many countries—Indonesia, Saudi Arabia, and Morocco, for example—exclude outright domestic workers from national labor codes, thus offering them few avenues for redress for exploitation and abuse. Malaysia includes domestic workers but excludes them from key provisions governing pay and working conditions. In other cases, governments extend separate and weaker protection through parallel legislation or labor decrees: Singapore, for example, excludes domestic workers from its main labor laws, and provides inadequate and vague protections in the Employment of Foreign Workers Act.

The exclusion of domestic workers from many of the legal protections extended to other categories of workers constitutes unjustifiable disparate impact as prohibited under non-discrimination principles enshrined in international law. International law prohibits discrimination on the basis of such distinctions as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status.<sup>101</sup> International law also guarantees equality before the law and the entitlement of all persons to equal protection of the law.<sup>102</sup>

CEDAW obligates states parties to ensure “the right to equal remuneration [between men and women], including benefits, and to equal treatment in respect of work of equal value.”<sup>103</sup> Laws, regulations, policies and practices that are neutral on their face can have a discriminatory impact.

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<sup>100</sup> ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (Worst Forms of Child Labour Convention), adopted June 17, 1999, 38 I.L.M. 1207 (entered into force November 19, 2000), art. 3(d). ILO Convention No. 95 on the Protection of Wages, adopted July 1, 1949 (entered into force September 24, 1952); ILO Convention No. 155 concerning Occupational Safety and Health, adopted June 22, 1981, 1331 U.N.T.S. 279 (entered into force August 11, 1983); Convention No. 111 concerning Discrimination in Respect to Employment and Occupation, adopted June 25, 1958, 362 U.N.T.S. 31 (entered into force June 15, 1960); and ILO Convention No. 183 concerning Maternity Protection (Revised), 2000, adopted June 15, 2000 40 I.L.M. 2 (entered into force February 7, 2002).

<sup>101</sup> UDHR, art. 2; ICCPR, art. 2(1); CEDAW, art. 1; CRC, art. 2; International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), adopted December 21, 1965, G.A. Res. 2106 (XX), 660 U.N.T.S. 195 (entered into force January 4, 1969), art. 1; Migrant Workers Convention, art. 7.

<sup>102</sup> UDHR, art. 7; ICCPR, art. 26.

<sup>103</sup> CEDAW, art. 11(d).

Exclusions of domestic workers from national labor laws, while facially neutral in that they focus on a form of employment, may not be discriminatory in intent but have a disparate impact on women and girls since the overwhelming majority of domestic workers are female. The lesser protection extended to domestic work reflects discrimination against a form of work usually performed by women and that involves tasks associated with traditional female domestic roles such as cleaning, child care, and cooking.

No legitimate reasons exist for these exclusions, meaning that the unequal protection of domestic workers under national laws constitutes impermissible disparate impact discrimination on the basis of sex and national origin. Arguments that domestic work does not lend itself to regulations on working hours and rest days do not address the need to protect domestic workers' right to health and right to rest. These arguments, as well as fears that such regulations would be difficult to enforce, can be addressed by encouraging the formation of domestic workers' associations, creating accessible complaint mechanisms, and learning from the experiences of governments that do extend labor protections to domestic workers, including Hong Kong.

In Indonesia, there are no regulations requiring the Ministry of Manpower to receive complaints from domestic workers, and the ministry does not conduct any monitoring of the informal sector, which includes domestic work. Officials in two local manpower offices did tell Human Rights Watch that a domestic worker who was not paid her salary could file a complaint and receive assistance in settling the case. But these officials had no data on complaints, nor could they recall any such case being filed.<sup>104</sup>

A local regulation in Jakarta gives domestic workers the right to annual leave, regular payment of salaries, clothing, food, rest and housing. It does not, however, specify hours of work per day, rest periods, or a minimum wage for domestic workers.<sup>105</sup> An ILO study concluded that the regulation has not worked because public and government officials are unaware of the law, there are no mechanisms to monitor its implementation, and sanctions for violations are mild.<sup>106</sup> When asked how disputes over wages are settled, the lawyer for a domestic worker supplier agency in Jakarta said the agency asks the

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<sup>104</sup> Human Rights Watch interview with Bambang Prayitno, Office of Manpower and Transmigration, Province of Central Java, Semarang, December 7, 2004; Human Rights Watch interview with Jamunuddin Marbun, unit head, Industrial Relations, Office of Manpower and Transmigration, Province of North Sumatra, Medan, December 14, 2004.

<sup>105</sup> Pembinaan Kesejahteraan Pramuwisma Di Daerah Khusus Ibukota Jakarta, Nomor 6 Tahun 1993 (Regional Regulation of Jakarta Special Province No. 6/1993 on Improving the Welfare of Domestic Workers), June 19, 2003.

<sup>106</sup> ILO-IPEC, *Bunga-bunga di Atas Padas: Fenomena Pekerja Rumah Tangga Anak Di Indonesia* (Flowers on the Rock: Phenomenon of Child Domestic Workers in Indonesia) (Jakarta: ILO, 2004), p. 163.

governor's office to intervene. "If they are not able to clear the problem, they leave it to us to report to the police and the police make a determination from this. If the police say there are not witnesses and your people are lying, we leave it to God."<sup>107</sup>

In countries where national legislation does recognize domestic workers but grants them labor rights that are inferior to those of workers in other sectors, such as Guatemala and El Salvador, monitoring and enforcement is weak to non-existent. The ministries of labor in these two countries do not proactively monitor working conditions in private households, nor do they keep employment records or gather statistics on domestic workers. Few domestic workers seek redress in the labor ministry in part due to lack of awareness of their rights, fear of retaliation, and a basic mistrust of the system. In 2002, for example, the Salvadoran labor ministry handled just forty-one cases involving domestic workers out of a total caseload of 2,900 labor complaints.<sup>108</sup> Enforcement of national minimum age laws, which might rescue the youngest child domestics from abusive situations, also tends to be weak in most countries, and such laws are often not enforced at all in situations of child domestic labor.

Efforts by rights activists to remedy discrimination against domestic workers in national and local legislation are often met with resistance. In Guatemala, one NGO has been lobbying without success for years for a separate law to regulate paid household labor guaranteeing domestic workers the same rights as other Guatemalan workers and to require employers to permit inspection by officials from the labor ministry. Efforts by local NGOs in Yogyakarta and Jakarta, in Indonesia, to achieve legislation protecting domestic workers' rights at the provincial level have met with resistance from the local government, as well as employers, to setting a minimum wage, hours of work, and to providing a weekly day of rest for domestics. In Morocco, amendments to the 2003 labor code provided for separate legislation governing domestic work, but as of this writing the government has yet to submit a draft law.

The response of labor-sending countries to abuse of migrant domestic workers is mixed. The Philippines has developed the most protective and rights-based system for overseeing labor migration through the Philippines Overseas Employment Administration (POEA). The POEA issues migrant domestic workers a standard contract stipulating a minimum wage and one day off per week. Much of Indonesia's response, by contrast, has focused on training prospective migrant workers, rather than

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<sup>107</sup> Human Rights Watch interview with Ramahadas Fro Marss, lawyer at Asosiasi Pengelola Pramuwisma Seluruh Indonesia, domestic worker supplier agency, Jakarta, November 30, 2004.

<sup>108</sup> Human Rights Watch interview with Edmundo Alfredo, chief of industrial and commercial inspection, Ministry of Labor, San Salvador, El Salvador, February 13, 2003.

directly addressing employer abuse or strengthening measures to hold abusive employers and labor agents accountable. The Indonesian government continues to allow labor agencies to manage the recruitment and training process without adequate oversight.

Labor-receiving countries also have varying records. Hong Kong provides a model that few others have emulated: domestic workers are included in its main labor laws, protecting their rights to a weekly day of rest, a minimum wage, maternity leave and public holidays. In Singapore, where domestic workers are excluded from these basic rights, the Ministry of Manpower has published a non-binding guide for employers of migrant domestic workers and introduced compulsory orientation programs for both new migrants and new employers. An employer who has cycled through five domestic workers in one year is now required to attend an orientation as well. Finally, the government has established an accreditation scheme for all new employment agencies and those seeking to renew their licenses. Standard employment contracts developed by accrediting bodies require that domestic workers be provided adequate food, rest and lodging, but they do not specify maximum hours of work or periods of continuous rest. At the time of writing, Singapore was debating a new standard contract that will provide for one day off per month, but this provision can be waived if the employer agrees to pay the worker compensation, a provision that can easily be abused.

The governments of Malaysia and Indonesia signed a Memorandum of Understanding (MoU) on migrant workers in 2004 that excluded domestic workers, and despite promises to swiftly adopt a specific MoU on these workers, this was finalized only in May 2006. The latter MoU failed to provide meaningful new protections to domestic workers and for the most part, retains the status quo. In an effort to combat withholding of wages, the Malaysian government is considering a law that would require employers of migrant domestic workers to open a joint bank account in the worker's and employer's names and deposit their wages on a monthly basis.<sup>109</sup>

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<sup>109</sup> Ibid.

## **Recommendations**

### ***To Labor Ministries***

- Ensure that national labor codes guarantee domestic workers the same rights as other workers with respect to written contracts, minimum wage, overtime, weekly day of rest, limited workday, rest periods during the day, national holidays, vacation and social security, and provide for effective penalties for violating the law.
- Enact regulations to monitor labor supply agencies and workplace conditions, providing for authorization for labor inspectors to monitor private households, conduct unannounced visits and interview domestic workers privately about working conditions.
- Require by law that domestic worker supplier agencies and employers deposit copies of written contracts with the labor ministry specifying hours of work and rest each day, weekly day of rest, vacation, wages, types of work, adequate food and accommodations, health insurance, medical expenses for workplace injuries, length of employment; and procedures for payment of wages, social security, and termination of work.
- Investigate and launch systems for employers and domestic workers to track all salary payments. Conduct spot checks of salary payment records. Where relevant, governments should help domestic workers set up bank accounts and systems for automatic payments from employers.
- Require by law that domestic supplier agencies:
  - Prepare work contracts fully informing employers and domestic workers of their rights and obligations;
  - Review birth certificates or compulsory education certificates of prospective domestic workers prior to recruiting them for domestic work to ensure compliance with minimum age laws;
  - Fully disclose in writing and orally any recruiting or placement fees to both domestic workers and employers prior to recruitment and placement.
- Publish and distribute guides for domestic workers setting forth their rights, and the legal responsibilities of employers, domestic worker supplier agencies, and other informal recruiters. Help regional and local governments launch public awareness campaigns, using print media, radio and television to disseminate the information.

### ***To Heads of State and Government, and Parliaments***

- Set a minimum wage if none exists. Ensure that wages are not set by discriminatory criteria such as national origin, but rather based on skills and experience.
- Ratify the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the ILO Worst Forms of Child Labour Convention, the ILO Minimum Age Convention, the ILO Discrimination Convention, and all other relevant ILO conventions.

## IV. Child domestic workers

Domestic work is the largest employment category for girls under sixteen worldwide, according to the International Labour Organization.<sup>110</sup> Although reaching and counting child domestic workers—indeed, domestic workers in general—is difficult, the child labor branch of the ILO, the International Program on the Elimination of Child Labour (IPEC), has attempted to estimate the numbers of girls engaged in domestic service in a variety of countries. A 2002-2003 baseline survey conducted by the IPEC and the University of Indonesia estimated that there were 2.6 million domestic workers in Indonesia, out of whom at minimum 688,132 (26 percent) were children; 93 percent of those were girls under the age of eighteen.<sup>111</sup> In El Salvador, IPEC used data from the Salvadoran census bureau to conclude that approximately 21,500 youths between the ages of fourteen and nineteen work in domestic service. Some 20,800—over 95 percent of these youths—are girls and women.<sup>112</sup>

A 2004 study by the ILO, UNICEF and the World Bank in Morocco found that child domestic workers are “perhaps the most vulnerable group of urban child workers.”<sup>113</sup> A 2001 study by the Fafo Institute for Applied Social Science estimated that between 66,000 and 86,000 girls under fifteen were working as child domestic workers, and a 2001 government survey found 13,580 girls under fifteen working as domestics in the greater Casablanca area alone.<sup>114</sup> Of the girls in the Casablanca survey, 870 were under eleven years old.<sup>115</sup>

In the general context of poverty, girls are also pushed into domestic work by poor quality education and poor access to education, broken families and violence in the home, and widespread acceptance of child labor in many countries. Girls typically migrate from villages to work as domestics in urban areas after they become available for work when prohibitive education-related costs force them to abandon their schooling, or

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<sup>110</sup> ILO, *Child Labour: Tolerating the Intolerable* (Geneva: ILO, 1996).

<sup>111</sup> ILO-IPEC, *Flowers on the Rock*, pp. xix, 21.

<sup>112</sup> Oscar Godoy, *Trabajo infantil doméstico*, p. 19.

<sup>113</sup> “Comprendre le travail des enfants au Maroc,” *una initiative de recherche commune entre l’Organisation Internationale du Travail, l’Unicef et la Banque Mondiale*, (“Understanding Children’s Work in Morocco”), May 2004, pp. 5-6.

<sup>114</sup> The Fafo Institute estimate includes “adopted” or “fostered” girls and girls with no kinship relationship to the head of the household, whom the authors argue may well be child domestics. The UNICEF survey found 9,360 girls age fifteen through seventeen working as child domestics. Tone Sommerfelt (ed.), *Domestic Child Labor in Morocco: An analysis of the parties involved in relationships to “Petites Bonnes,”* Fafo Institute for Applied Social Science (Oslo; Fafo, 2001), pp. 15-17; Regional Office for Greater Casablanca, *Study of Girl Domestics*, p. 39.

<sup>115</sup> Regional Office for Greater Casablanca, *Study of Girl Domestics*, p. 3.



after they are removed from school to contribute to their families' income. In some countries, there may be a particular demand for girl domestic workers because they can be paid lower wages (if paid at all), and are considered easier to control and less likely or able to report abuses or to escape.

Many child domestic workers find employment through formal and informal intermediaries, typically with some kind of parental involvement, in a process often marred by deception, incomplete information, false promises and onerous fees. In Morocco, most child domestic workers we interviewed had been placed by brokers working within an unregulated system that facilitates abuse. Brokers receiving a portion of a girl's monthly salary have an incentive to ensure she keeps working, and so may prevent her parents from hearing about abuse. In some cases, the broker acts as an intermediary between employer and parents, collecting the child's salary and delivering it to her parents, who may not even know her exact whereabouts. In Indonesia, licensed employment agencies may legally recruit children over the age of fifteen for domestic work, though many girls also find employment through informal intermediaries including friends, relatives, or are recruited directly by employers.

As the stories of child domestic workers described throughout this report demonstrate, girls are not spared the appalling array of abuses suffered by all domestic workers. Indeed, in many instances, their youth exacerbates their position of helplessness and disempowerment vis-à-vis employers. Abuses such as confinement, prohibition on socializing with peers, and food deprivation may have longer-term physical and psychological consequences for younger workers than their adult counterparts. In many of the cases documented by Human Rights Watch in Indonesia, Morocco and El Salvador, girl domestic workers suffered specific sets of violations of their internationally-protected rights as children. These girls performed work that met the international definition of a "worst form of child labor." They were routinely denied the right to education and separated from their families for long periods of time.

### ***Worst forms of child labor***

International law does not prohibit child labor in itself, in recognition of the potential benefits of some forms of work and of the realities that require many children to enter the workforce to support their own or their families' basic needs. But international law does require states to set a minimum age for employment and to eliminate the "worst forms" of child labor.

The CRC guarantees children the right "to be protected from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to

the child's health or physical, mental, spiritual, moral or social development."<sup>116</sup> The ILO's Worst Forms of Child Labour Convention, adopted in 1999 and ratified by 150 countries worldwide, develops the prohibition on harmful or hazardous work more fully. Under the Worst Forms of Child Labour Convention, some forms of child labor are flatly prohibited, such as slavery or practices similar to slavery. Other types of work are prohibited if they constitute "work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children."<sup>117</sup>

ILO recommendations for what constitutes hazardous labor under the Worst Forms of Child Labour Convention include work that "exposes children to physical, psychological or sexual abuse" or involves "particularly difficult conditions such as work for long hours or during the night or work where the child is unreasonably confined to the premises of the employer."<sup>118</sup>

Research findings from Human Rights Watch, local NGOs, UNICEF, and the ILO sadly demonstrate how often these conditions are met. Girl domestic workers put in excruciatingly long hours—sometimes up to eighteen hours a day—with little or no time to rest. Those who care for younger children are "on call" around the clock, and obliged to work during the night to tend to infants. Girls are just as likely as adult women workers, if not more so, to be confined to the household where they work. The stories of beaten, belittled, sexually harassed and raped girls recounted in Chapter II, above, illustrate how domestic work exposes girls to physical, psychological or sexual abuse.

An ILO-IPEC study in Indonesia found that child domestics perform the same amount of work as adult workers, which tends to surpass their physical capacity and stamina.<sup>119</sup> The same study noted that working long hours with no time for rest and recreation or for socializing with peers affects a child's mental, physical, social, and intellectual development.<sup>120</sup> In many instances, the tasks performed by child domestic workers are inappropriate to their age and physical strength because they involve heavy lifting, exposure to toxic cleaning chemicals, or risks of burns or cuts during food preparation. Children working extremely long hours risk health problems and are more prone to accidents even when engaged in work that would not normally be dangerous.<sup>121</sup> Heavy lifting can damage or stunt growing bones and muscles, while prolonged exposure to hot

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<sup>116</sup> CRC, art. 32(1).

<sup>117</sup> Worst Forms of Child Labour Convention, art. 3.

<sup>118</sup> Worst Forms of Child Labour Recommendation 190, para. 3.

<sup>119</sup> ILO-IPEC, *Flowers on the Rock*, pp. 70-71.

<sup>120</sup> *Ibid.*

<sup>121</sup> ILO-IPEC, *Helping Hands*, pp. 50-51.

water, harsh cleaning agents, and dust can trigger asthma, allergies, eczema and other diseases of the skin.

### **Separation from family**

*I had no day off. Even though my parents were twenty kilometers away, I was not allowed to visit them. I felt like I was in jail. I was not allowed to go out. I had no friends. My family could not visit me. I felt hopeless.*

—Hasana, Indonesian domestic worker who began work at age twelve, Yogyakarta, December 4, 2004

Child domestic workers, sometimes as young as three, are often separated from their families for long periods of time and prohibited from visiting or telephoning them by employers. This separation, combined with other restrictions such as confinement in the household, leaves them especially vulnerable to abuse and prevents them from seeking help.

Employers often argue that restricting movement is necessary to ensure a child's security. Merpati, an Indonesian girl who was fifteen when she worked for an employer who locked her indoors, recalled, "The employer forbade [me] from going out of the house or contacting my family. She would lock the door from the outside. She said that I would be protected if the door was locked. At first I felt okay, but then I felt confined. I was home all day and never went outside."<sup>122</sup> In her first job as a domestic worker when she was ten years old, Moroccan Rasha A. was locked indoors every time her employers left the household.<sup>123</sup> Sixteen-year-old Samira M. told us her employers in Morocco didn't let her go out "except to take out the garbage."<sup>124</sup>

The ILO-IPEC study in Indonesia found that employers were more likely to restrict a child's communication with her family than an adult worker's, and noted that they did so because they were afraid child domestic workers would "mix with the wrong crowd," would report their employers' mistreatment, or seek better employment.<sup>125</sup> A UNICEF general study published in 1999 notes that "[a] sense of being enslaved is reinforced

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<sup>122</sup> Human Rights Watch interview with Merpati, child domestic worker, age fifteen at time of employment, Pamulang, Indonesia, December 18, 2004.

<sup>123</sup> Human Rights Watch interview with Rasha A., child domestic worker, age fourteen, Marrakech, Morocco, May 20, 2005.

<sup>124</sup> Human Rights Watch interview with Samira M., child domestic worker, age sixteen, Casablanca, Morocco, May 17, 2005.

<sup>125</sup> ILO-IPEC, *Flowers on the Rock*, p. 75.

where the child [domestic worker] is not allowed to leave the house. In Asia, this is common, although imposed in the name of the girl's personal security... Loss of freedom is the ultimate human rights abuse."<sup>126</sup>

In interviews with child domestic workers in Morocco and Indonesia, Human Rights Watch learned that most girls endured abusive situations until a religious holiday gave them the opportunity to go home. Amina L. told us she was able to leave her first job, which she started when she was eight, in this way. "I would eat alone, sleep alone, and I didn't go to school. The work was very hard so I didn't stay very long. When I went home I cried and refused to go back."<sup>127</sup> Typically working in cities some distance from their rural homes, many girls are unable to contemplate running away for any number of reasons, including physical confinement in the household, lack of money or knowledge about how to return home, employers' threats of violence or denunciation to the police, and girls' own fears about getting lost or attacked if they left the workplace.

When family members do visit girls in the workplace, the visits are typically short and sometimes are monitored by employers, giving girls little opportunity to convince families who depend on their incomes that the abuses are severe enough to warrant leaving the job. When she was ten, Moroccan Rasha A. was routinely beaten by her employers and threatened with more beatings if she told her parents:

If something happened—if I broke something or did something badly—they would beat me with a shoe or a belt on any part of my body. I couldn't leave the house, they would lock the door when they left... Both the husband and the wife hit me. My family saw me twice in the year that I worked. They came to visit me at the house but the employer sat with us during the visit and told me not to say anything bad or she would beat me more. When my mother came the last time to visit I told her I wouldn't stay at that house anymore. I said, "either I go with you or I will run away or kill myself."<sup>128</sup>

Infrequent contact between parents and children may make parents less able to recognize signs of abuse, particularly if parents' desire to protect their children conflicts with their desire for the child to continue earning much-needed income. Conversely,

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<sup>126</sup> UNICEF, "Child Domestic Work," *Innocenti Digest* (Florence: UNICEF, 1999), p. 6.

<sup>127</sup> Human Rights Watch interview with Amina L., child domestic worker, age sixteen, Casablanca, Morocco, May 18, 2005.

<sup>128</sup> Human Rights Watch interview with Rasha A., child domestic worker, age fourteen, Marrakech, Morocco, May 20, 2005.

children who feel intense pressure to provide for their families may be slower to complain to parents about abusive employers if they feel that it will do no good or that their families depend on them.

Many girl domestic workers in Indonesia spoke of despondency and depression as a result of separation from their families. Vina, who began working when she was thirteen, recalled, “I was always depressed because I could not leave the house to visit my mother or sister. No one came to visit me. It was not allowed.”<sup>129</sup> Dita became a domestic worker at age fifteen. She told us, “I felt oppressed, not free. I was always told what to do and had no time to rest. I was not allowed to go out. I was told that I could not go home to see my family. It made me depressed.”<sup>130</sup>

Isolating child domestics from their parents negatively affects a child’s self-esteem and sense of identity, and inhibits normal childhood development. For instance, Anti-Slavery International notes that an employer rarely assumes a parental role other than in a disciplinary way, and fails to encourage the child, or guide the child to develop personally.<sup>131</sup> According to a 2002 ILO background report on child domestic workers, the isolation of child domestics from their peers and family, “when compounded by verbal, physical abuse and harassment can at times result in personality disorders.”<sup>132</sup>

### ***Education denied***

*My parents took me out of school because we had no money to pay for school fees. I was very upset. I studied hard and had good grades. I remember crying a lot.*

—Hasana, Indonesian girl who began domestic work at age twelve,  
Yogyakarta, Indonesia, December 4, 2004

Domestic labor by children directly interferes with their right to education. Education costs that are beyond the reach of many poor families push many girls out of school and into domestic labor. Once employed in domestic work, few children are allowed to continue their education.

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<sup>129</sup> Human Rights Watch interview with Vina, child domestic worker, age thirteen at time of employment, Medan, Indonesia, December 15, 2004.

<sup>130</sup> Human Rights Watch interview with Dita, child domestic worker, age fifteen at time of employment, Yogyakarta, Indonesia, December 2, 2004.

<sup>131</sup> Maggie Black, *Child Domestic Workers: A Handbook for Research and Advocacy* (London: Anti-Slavery International, 1997), p. 14.

<sup>132</sup> Bharati Pflug, *An Overview of Child Domestic Workers in Asia*, ILO-Japan-Korea Asia Meeting on Action to Combat Child Domestic Labour, October 2-4, 2002, Chiang Mai, Thailand (Bangkok: ILO-IPEC, 2003), p. 26.

Poverty is perhaps the single greatest contributor to the phenomenon of child labor. The vast majority of the girl domestic workers Human Rights Watch has interviewed around the world come from poor, rural families unable to forego income from all available members of the family. For children in families living near or below the poverty line, death, divorce or disability of a wage earner in the household can overwhelm already fragile coping mechanisms, increasing the likelihood that children will be sent to work to replace lost income. School fees and related costs of schooling—such as textbooks, uniforms, and transportation—often put education beyond children’s reach. Girls are especially likely to be pulled out of school, start late, or never attend at all because of cultural biases against girls attending school leading families to “save” money by keeping girls out of school and/or sending them to work to help pay for the education of male siblings. Denial of the right to education all too often leaves girls without the skills and knowledge they need to find better jobs, participate fully in society, and exercise their other rights.

### ***Barriers to education***

For poor families, the direct and indirect costs of education can be prohibitive. Ami’s story is typical. An Indonesian domestic worker, Ami began working when she was thirteen after she was unable to continue her education beyond elementary school: “I went to junior school... [but] after a week, the school asked me to pay [a down payment] and my parents couldn’t pay the money. So I left the school. I wanted to go and when I had to leave I was so sad. I would like to go back to school.”<sup>133</sup>

Other factors contributing to pulling girls out of school and pushing them into child labor include lack of identity documents (such as birth certificates), and cultural biases against girls attending school. Several of the girls interviewed in Morocco, where the law provides for free and compulsory education from age six to fifteen, said they were unable to enroll or to continue in school because they were not registered at birth. Abeer T., twenty-one, said, “I didn’t go to school. My mother didn’t let the girls go to school, only the two boys.”<sup>134</sup>

### ***Working in order to attend school***

In El Salvador, Human Rights Watch spoke with many girls who began domestic work in order to pay for their education. Under Salvadoran law, state schools must provide

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<sup>133</sup> Human Rights Watch interview with Ami, child domestic worker, age thirteen at time of employment, Yogyakarta, Indonesia, December 6, 2004.

<sup>134</sup> Human Rights Watch interview with Abeer T., age twenty-one, Casablanca, Morocco, May 27, 2005. Abeer began working as a domestic at age five.

basic education, from first through ninth grades, free of charge. Nevertheless, many schools charge matriculation fees or “voluntary” monthly assessments, and most require students to wear uniforms they must purchase themselves. Girls who are determined to continue their education are often forced to work during school vacations to cover these costs that their families cannot afford. Dalia R., fourteen, works during her school vacation to help her mother pay for her education:

I work for [the money to pay for] it on vacation, and my mother saves money to pay for my uniform and school supplies... I have to buy books, but I haven't yet because I need to wait until my mother has the money. My mother earns very little. We use the money for daily things.<sup>135</sup>

Other girls worked full-time as domestic workers and attended night school. Larger cities like San Salvador and Santa Ana offer this important opportunity to working children, but traveling to and from school at night may carry risks, especially for girls. Alma S. left two different jobs because she was only allowed to attend school at night and feared for her safety during the journey. “It was dangerous,” she said of her first job, because the school was far away from where she worked. She left the second job after her employer insisted she give up attending morning classes. “I had to look after the children. I was going to school in the morning, but then I couldn't go... so I came back here [to night school].” She gave up that job after an elderly woman was attacked on the street near the house where she worked. “San Salvador is dangerous,” she repeated.<sup>136</sup>

In Indonesia, some children are recruited by labor agents, or sent to work by their parents, on the promise that their employers will send the child to school in return for domestic service. All too often, these promises are not kept out. Of thirty-nine girls interviewed by Human Rights Watch, only one was attending formal school. Hasana (quoted at the opening of this section), for example, began working when she was twelve with the understanding she would be able to go to school. “I was very happy at first... My employer kept promising me that he would send me to school, but he never did—he lied.”<sup>137</sup> Girls working as domestics in Morocco also reported being promised repeatedly they would be sent to school, but with the exception of a few children enrolled in non-formal education classes, this never happened.

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<sup>135</sup> Human Rights Watch interview with Dalia R., child domestic worker, age fourteen, San Salvador, El Salvador, February 18, 2003.

<sup>136</sup> Human Rights Watch interview with Alma S., child domestic worker, age fifteen, Department of San Salvador, El Salvador, February 13, 2003.

<sup>137</sup> Human Rights Watch interview with Hasana, child domestic worker, age twelve at time of employment, Yogyakarta, Indonesia, December 4, 2004.

### *The effect of work on education*

Girls who are fortunate and determined enough to continue their education while working may miss classes or days at school due to work obligations, or be too exhausted to do their homework or study effectively. One former domestic worker in El Salvador, I.G., now an adult, explained, “Sometimes when I had lessons I had to cook, I had things to do: cooking, washing, ironing, cleaning. Sometimes I didn’t have enough time to prepare for school. Sometimes I would put my books up in the kitchen. I was not a good or a bad student, just an average one.”<sup>138</sup>

Indeed, it is hard to imagine a child being able to succeed in school while working the exhausting jobs documented in this report. Wardina, the only girl we met in Indonesia who was able to attend school while working as a live-in domestic worker, described her situation:

Everyday I wake up at 5 a.m. I clean the house, wash clothes, and water the plants. At 12 p.m. I go to school. School ends at 5:30 p.m. and I go back to work, prepare dinner, clean the table, and wash the dishes. Before I go to sleep, I do some homework, but I am very tired by then and not able to study. The employer also has a small business. When she receives an order to bake cookies, I have to help her. This delays me going to school.<sup>139</sup>

Seventeen-year-old Flor N. worked as a day domestic worker in San Salvador. She rose at 2 a.m. every day to get to work by 4:30 a.m., having to walk one kilometer on a dangerous road known for gang activity to catch a bus. She worked for thirteen hours—“It’s heavy work: washing, ironing, taking care of the child”—before heading to her fifth grade evening class. “Sometimes I get to school super tired,” she said. “I get up at 2 a.m. to go to work. I leave school at 7:30 p.m. and get home about 8 p.m. I have dinner and sleep for about five hours.”<sup>140</sup>

As one ILO-IPEC officer in Indonesia exclaimed, “Education after working hours is torture. How can [working children] go to school after working ten hours?”<sup>141</sup> ILO-

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<sup>138</sup> Human Rights Watch interview with I.G., formerly a child domestic worker, San Salvador, El Salvador, February 17, 2003.

<sup>139</sup> Human Rights Watch interview with Wardina, child domestic worker, age fourteen, Bekasi, Indonesia, December 18, 2004.

<sup>140</sup> Human Rights Watch interview with Flor N., child domestic worker, San Salvador, El Salvador, February 18, 2003.

<sup>141</sup> Human Rights Watch interview with Pandji Putranto, senior program officer, ILO-IPEC, Jakarta, Indonesia, November 29 and December 16, 2004.



IPEC studies in Bandung, Medan, and Sulawesi in Indonesia on the effects of work on education found that “a child is able to combine only three hours of work per day in order to effectively study at the same time.”<sup>142</sup>

### ***International human rights law and government response***

International legal standards prohibiting hazardous and exploitative child labor are discussed earlier in this report. In addition to these protections, international law also addresses a child’s right to education and contact with his or her family.

The CRC affirms a child’s right to be in regular and direct contact with her parents and prohibits arbitrary interference with a child’s family.<sup>143</sup> Separation from their families can contribute to cumulative psychological harm of abusive situations, in contravention of the right of children to the highest attainable standard of health and their physical, mental, spiritual, moral and social development.<sup>144</sup>

The UDHR, CRC and the ICESCR guarantee the right to education. These instruments dictate that primary education “must be compulsory and available free to all.”<sup>145</sup> Secondary education, including vocational education, must be “available and accessible to every child,” and states parties must “take appropriate measures, such as the introduction of free education and offering financial assistance in case of need.”<sup>146</sup> In addition, the CRC obligates states parties “to take measures to encourage regular attendance at school and the reduction of drop-out rates.”<sup>147</sup> State parties to CEDAW are obligated to end discrimination against girls in education, including access to schooling, reduction of female student drop-out rates, and programs for girls who have left school prematurely.<sup>148</sup>

The ILO Convention No. 138 concerning the Minimum Age for Admission to Employment (“Minimum Age Convention”) provides that the minimum age for employment “shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years.”<sup>149</sup> An exception is made for a state “whose economy and educational facilities are insufficiently developed,” which may “initially

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<sup>142</sup> Ibid.

<sup>143</sup> CRC, arts. 9 and 16.

<sup>144</sup> CRC, arts. 24 and 27.

<sup>145</sup> UDHR, art. 26(1); CRC, art. 28(1)(a); ICESCR, art. 13(2)(a).

<sup>146</sup> CRC, art. 28(1)(b).

<sup>147</sup> Ibid., art. 28(1)(e).

<sup>148</sup> CEDAW, art. 10.

<sup>149</sup> ILO Convention No. 138 concerning the Minimum Age for Admission to Employment (Minimum Age Convention), adopted June 26, 1973, 1015 U.N.T.S. 297 (entered into force June 19, 1976), art. 2(3).

specify a minimum age of 14 years.<sup>150</sup> The Convention further states that national laws “may also permit the employment or work of persons who are at least fifteen years of age but have not yet completed their compulsory schooling” provided the work “is not likely to be harmful to their health or development” and does not prejudice their attendance at school or participation in vocational training programs.

Acknowledging exploitation of child domestic workers is the first critical step to eliminating the worst forms of child domestic labor. Yet governments often turn a blind eye. In El Salvador and Indonesia, government officials consistently denied the problem, despite statistics suggesting widespread employment of young girls in domestic labor, and numerous testimonies of abuse. Although estimates suggest that one out of every five girls or women between the ages of ten and nineteen in El Salvador who has or is seeking a job is a domestic worker, the Salvadoran director general of labor at the time of our research in 2003 told us, “Really the work of minors in domestic service is very little. Few minors are working as domestics. Very few.”<sup>151</sup> Government officials in Indonesia insisted that child domestic workers are “devotees” under the protection of the families for whom they work, exchanging their work for food and accommodation in keeping with a long-standing cultural tradition.

As a result, El Salvador and Indonesia have not prioritized child domestic labor in their time-bound programs to eliminate the worst forms of child labor. Time-bound programs, undertaken with the assistance of ILO-IPEC, are “a set of integrated and coordinated policies and interventions with clear goals, specific targets and a defined time frame, aimed at preventing and eliminating a country’s [worst forms of child labor].” Although an IPEC study in El Salvador concluded that domestic work was among the worst forms of child labor, the Salvadoran government has not identified child domestic labor as a priority in its time-bound program. The Indonesian government did include domestic labor in a 2002 National Plan of Action for the Elimination of the Worst Forms of Child Labor, but omitted this category from the priority areas for the first phase of the twenty-year action plan.<sup>152</sup>

Child domestic work is likely to be excluded from the time-bound program Morocco is currently developing because the Moroccan government “doesn’t consider child domestic labor by children over fifteen to be hazardous labor,” according to ILO-

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<sup>150</sup> *Ibid.*, art. 2(4).

<sup>151</sup> Human Rights Watch interview with José Víctor Orlando Orellana Maza, director general of labor, San Salvador, El Salvador, February 13, 2003.

<sup>152</sup> Areas that are included are fishing, footwear, mining, the sale and trafficking of drugs, and commercial sex trafficking.

IPEC.<sup>153</sup> The government is also expected to produce a ten-year National Plan of Action on Childhood in the near future. The Plan will reportedly include a focus on eliminating the worst forms of child labor, including child domestic labor.

In the absence of targeted programs, rigorous enforcement of minimum age laws and other regulations could help rescue the youngest child domestic workers. In Indonesia, for example, the law sets the minimum working age of all children at 15 and prohibits children under age 18 from performing work that is hazardous to their health, safety or morals. While this law is applicable to domestic work, in practice it is rarely enforced. In Morocco, where the minimum working age is also fifteen, the Ministry of Labor has done little to enforce the law, citing the inability of labor inspectors to enter private households. And in El Salvador, which has a minimum working age of fourteen, provisions regulating the work of minors are so riddled with contradictions that children are effectively left without protection and labor inspectors may not be aware of restrictions on child domestic labor. For example, children under fourteen and those who have not yet completed compulsory education “may not be employed in any form of work,” but children twelve and above may perform “light work” that does not prejudice their health or development and does not interfere with their education.<sup>154</sup>

Efforts to address the barriers to formal and non-formal education that drive girls into work at young ages and the difficulties of working girls to continue their schooling have been insufficient. School fees, even where national law provides for free and compulsory education, and education-related costs, continue to put education beyond the reach of many children. Salvadoran law guarantees free basic education in grades one through nine, and the Ministry of Education has issued guidelines eliminating school fees and ensuring that rules about uniforms not obstruct a child’s right to attend school. Many schools, however, continue to charge matriculation fees or “voluntary” monthly assessments, and most require students to wear uniforms. In practice, students are often turned away from school if they do not have a uniform.

In Morocco, too, education from age six to fifteen is compulsory and free under the law. And yet many of the child domestic workers we interviewed in that country cited school fees and related costs as the reason they did not enroll in school or dropped out. Morocco has made advances in expanding primary school enrollment, especially in rural areas and among girls, but only 8 percent of Moroccan working girls also attend school—the second lowest attendance rate for any country outside of sub-Saharan Africa.

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<sup>153</sup> Human Rights Watch interview with Malak Ben Chekroun, ILO-IPEC officer, Rabat, Morocco, May 30, 2005.

<sup>154</sup> Salvadoran Labor Code, art. 114.

Indonesian law guarantees the right to basic education from age seven through fifteen. However, school fees have not been abolished, and schools charge tuition and infrastructure fees. The 2003 education law codifies funding for education as a “shared responsibility” of the national and regional governments, and the “community.” The law in Indonesia does not require employers to allow working children to attend school, and does not limit the working hours of children legally employed over the age of fifteen in order to provide time for schooling. A Ministry of Education official said, “We... can’t say that if anyone prevents a child from going to school, it violates Indonesia’s policy on education because currently the government is unable to provide education for all.”<sup>155</sup>

Non-formal education and vocational training can provide important opportunities for children to transition back to formal education or acquire skills that will allow them to seek higher-paying, safer employment. Here too, however, governments have not taken adequate steps to ensure availability of these types of programs and access for child domestic workers. In Morocco, government-run, non-formal education programs do exist, but they are poorly designed and under-funded. There are no government-administered, non-formal educational programs targeting domestic workers in Indonesia. Since 2003, ILO-IPEC, in cooperation with local NGOs, offers vocational classes for child domestic workers in the greater Jakarta area, but these programs were being phased out in mid-2006 as allocated funding ran out. A similar program operated by UNICEF also ended in December 2004 for lack of funds. Though laudable, both these programs and governmental programs in Morocco are flawed from the outset because the potential beneficiaries can only participate at the employer’s whim.

## ***Recommendations***

### ***To Heads of State and Government, and Parliaments***

- Ratify and implement ILO Convention No. 138 concerning the Minimum Age of Admission to Employment and ILO Convention No. 182 and Recommendation No. 190 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

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<sup>155</sup> Human Rights Watch interview with Fasli Jahal, director general, Out of School Education and Youth, Yogyakarta, December 14, 2004.

### *To Labor Ministries*

- With the assistance of the International Labour Organization, institute and implement a time-bound program to eliminate the worst forms of child labor, prioritizing child domestic labor as a key target sector.
- Strictly enforce fifteen as the minimum age of employment for all employment sectors, including domestic labor, and enact regulations to provide for sanctions against every labor recruiter and employer, including employers in the informal sector, who recruit and employ children under fifteen.
- By law require employers to register with the appropriate local authority the name and age of each domestic worker working in their homes; and authorize civil society groups to monitor compliance with the minimum age law and workplace abuses and to promptly report violations to local authorities and the police.
- Adopt regulations to prescribe a reasonable number of hours of work during the day that children aged fifteen and older may work, to ensure that work does not interfere with their schooling.
- Provide labor inspectors with the resources and training necessary to effectively monitor child labor, including child domestic labor, and to refer for prosecution those responsible for abusing working children.

### *To Ministries of Education*

- Ensure that all children enjoy the right to free and compulsory basic education. In particular, identify and implement strategies to remove barriers to formal education, such as school fees and related costs and birth registration.
- Ensure that all working children, including those in the informal sector, have access to primary and secondary education, including vocational training, by prescribing a maximum number of hours a child may work per day.

## V. Migrant domestic workers

*My parents had no more work, they have no land. I went to Manila to find a job in electronics.... [But] I couldn't afford to give money to my family when I was working in the Philippines. I came to Singapore only to sacrifice for them.*

—Cristina Lopez, Filipina domestic worker, age thirty-two, Singapore, February 20, 2005

A combination of push and pull factors contribute to the growing ranks of migrant domestic workers. Wealthy countries in the West and the Middle East, and fast-growing economies in Asia, rely on labor migration to fill low-paying, labor-intensive jobs with poor working conditions. Paid domestic workers help free women in expanding middle classes to work outside the home, where increased access for women to the formal labor market has not been matched with appropriate family-friendly working conditions and childcare options.

For many women and girls, migration into domestic work, sometimes very far from their homes and at great personal cost, may appear to be their only option to support themselves and their families. Increased rural poverty occasioned by structural adjustment programs, economic crises and the devastation of the agricultural sector in many countries have pushed women and girls into the domestic labor market. For labor-sending countries, the “export” of labor has become an increasingly important strategy for addressing unemployment, generating foreign exchange, and fostering economic growth. Remittances have grown steadily over the past three decades and the World Bank estimated that migrant workers from developing countries sent U.S.\$167 billion home in 2005.<sup>156</sup> According to the International Monetary Fund, “For many developing countries, remittances constitute the single largest source of foreign exchange, exceeding export revenues, foreign direct investment (FDI), and other private capital inflows.”<sup>157</sup> For example, Filipino migrant workers, mostly women, sent home U.S.\$11.6 billion dollars in 2004—13.5 percent of the country’s GDP.<sup>158</sup>

The millions of women and girls who migrate across borders for domestic work bolster the economies of both their countries of origin and of employment. Despite prospering

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<sup>156</sup> World Bank, *Global Economic Prospects: Economic Implications of Remittances and Migration 2006* (Washington, D.C.: World Bank, 2006), p. 87.

<sup>157</sup> International Monetary Fund, “Workers’ Remittances and Economic Development,” *World Economic Outlook: Globalization and External Imbalances* (Washington D.C.: IMF, 2005), p. 69.

<sup>158</sup> World Bank, *Global Economic Prospects*, p. 90.

from these women's labor, associated taxes, and remittances, governments have failed to guarantee basic human rights protections. Instead, domestic workers confront the risk of exploitation and abuse at every stage of the migration cycle, including recruitment, transit, employment and return. Employment agencies involved in the recruitment and training of prospective migrant domestic workers may charge exorbitant fees, provide incomplete or misleading information about working conditions, and, in some countries such as Indonesia, subject women and girls to pre-departure abuses in training centers. Once abroad, migrant domestic workers are often subject to highly restrictive and discriminatory immigration regulations, and may find themselves living with abusive employers. Upon return, many domestic workers face extortion at ports and on their journey home.

Many domestic workers may find responsible employers who treat them well, pay them regularly, and ensure appropriate working conditions. These workers often form the basis of the widespread perceptions in their home countries of lucrative and exciting jobs abroad. Unfortunately, finding a decent employment situation is often a matter of luck and not a guarantee. And those who are not so lucky may become trapped in highly exploitative situations with few exit options.

Several factors contribute to migrant domestic workers' isolation, financial stress, and limited access to assistance. Many can see no way out of abusive situations. Already in debt, they typically face more fees and salary deductions if they attempt to transfer employment or return to their home countries before completing their employment contracts. Because work permits are tied to the individual employer, leaving or losing one's job typically means immediate repatriation. Many employers confiscate their domestic workers' passports and work permits, meaning women and girls fleeing abusive situations can face arrest and immigration detention. Many employers also restrict domestic workers from talking to neighbors or leaving the place of employment independently. The isolation and desperation that domestic workers feel may contribute to the high number of suicides.

The devastating experiences of migrant domestic workers interviewed by Human Rights Watch who originated from or worked in Indonesia, Malaysia, the Philippines, Saudi Arabia, Singapore, Sri Lanka, the United Arab Emirates, and the United States bear witness to the pressing need for governments, the international community, civil society, and donors to prioritize the defense of migrant domestic workers' rights and freedoms.

## **Recruitment and training**

*In the training center, it was very bad... We received rice once a day and in the morning bread... I was there for three months... The gate was always locked. The security guard had the key. If my friends ran away, the rest of the girls received punishments. They wouldn't give us food for a day or we would have to do three or four hundred push-ups.*

*I was so depressed... I was so tired once [during training], I fell asleep. The staff woke me up and made me do two hundred sit-ups until I almost fainted. Sometimes they used very harsh words, like, "If you're not successful, you'll become a prostitute!" They used all bad words... They didn't explain the employment contract, I just had to sign it. I did not receive a copy. I did not know what was inside.*

—Dewi Haryanti, age twenty, Indonesian domestic worker, Singapore, February 27, 2005

In Asia, the large numbers of women migrating for work, as well as the demand for cheap domestic labor, has created a lucrative market for employment agencies specializing in domestic workers. These agencies are typically involved in recruitment, training, transportation, and placement of domestic workers. They often play a central role in handling disputes between employers and workers. Inadequate regulation and inadequate government oversight combine to give employment agencies enormous influence over the fates of migrant domestic workers. In many cases agencies set the conditions of employment, including wages and rest days. Migrant domestic workers are subject to deception and abuse by labor agencies in their home countries as well as the counterpart agency in the receiving country.

Labor agents often give incomplete or false information about the terms of employment and burden prospective domestic workers with onerous debts. For domestic workers migrating to Hong Kong, Taiwan, Singapore, and Malaysia, the recruitment fees are typically paid through long-term salary deductions (as described above in Chapter II). If they are migrating to the Middle East, they typically pay a large fee upfront to the local recruiter, often financed through loans with interest rates as high as 100 percent. With a vested interest in recovering their investment, employment agencies routinely fail to protect workers from employer abuse. Sometimes, labor agents are directly responsible for the abuse.



The Philippines and Sri Lanka have more developed regulatory frameworks for monitoring migration than other labor-sending countries. Migrant domestic workers from these countries tend to encounter far more abuses when they go through unlicensed agents versus those approved by their labor ministries. In Indonesia, where there are over four hundred licensed domestic employment agencies and countless illegal ones, lack of effective government oversight, corruption, and the bureaucratic structure of labor recruitment increase the risks of exploitation of prospective migrant domestic workers.

Indonesian women migrating for domestic work often first come into contact with a local labor recruiter from their village. These recruiters usually do not receive a regular salary but rather work on commission for several different employment agencies, sometimes for both licensed agencies and illegal agents simultaneously. This system increases the possibility that prospective migrant workers may think they are going through legal channels but may actually, unbeknownst to them, obtain fraudulent or incorrect documents at some point in the process. Migrating illegally typically places migrant workers at higher risk for abuses at all stages of the migration process and severely limits their access to redress. Although women migrating for domestic work to Asia through legal channels should not have to pay recruitment fees up front, but rather through salary deductions, it is common for labor recruiters to extort sometimes large sums of money from prospective migrant workers.

Labor agents in Indonesia often fail to provide prospective domestic workers with complete information about their working conditions and their rights. Many migrant domestic workers told Human Rights Watch they had signed a contract, but never received their own copy. They were usually not given a full explanation of the terms of the contract or given any opportunity to ask questions. Sample contracts Human Rights Watch obtained, most of them for two years' employment, generally did not contain a job description detailing workload or types of work, nor did they regulate the hours of work or provide for overtime pay.

Many of the migrant domestic workers we interviewed in Singapore and Malaysia had experienced abuse at the hands of employment agents. These abuses included confiscation of passports, personal belongings and religious items; threats and physical abuse; illegal or dangerous work assignments; and refusal to remove women from abusive employment situations. Muryani Suharti, an Indonesian domestic worker in Singapore whose employer repeatedly raped her, said, "The agency didn't believe me. They said, 'if it's true he forced you, why did it happen so many times?' It happened because I was afraid. After that, I spent one month at the agency, working part-time for

no pay. I told the agent, I want to go back to Indonesia. They told me if I wanted to go I had to pay all the expenses.”<sup>159</sup>

Indonesian domestic workers in Malaysia and Singapore told Human Rights Watch that instead of providing information on options should the workers face abuse or other problems, labor agents barraged them with threats and lectures about their “obligations” not to run away, to obey their employers, and to work hard. Tita Sari, a twenty-four-year-old Indonesian domestic worker in Malaysia, told us,

If the employer does something bad to the maid, the agent does not care or pay attention to the problem, even if the employer rapes the maid. I know many cases like this. If the employer hits them, and they write to the agent, the agent blames them and hits them too. The agent can’t be believed—the agent and the employer are the same.<sup>160</sup>

The lack of information puts domestic workers at risk of exploitation and abuse by unscrupulous agents and employers. For instance, only a few Indonesian domestic workers whom we interviewed in Malaysia were even aware of the presence of the Indonesian embassy in Malaysia and that they could turn there for help.

Prospective migrant domestic workers in Indonesia are required to complete a training course before departure. Women expecting to spend one or at the most two months in training often find themselves trapped in a months-long ordeal in overcrowded centers with substandard conditions. Migrant domestic workers in Malaysia and Singapore told Human Rights Watch of prison-like conditions, inadequate food and water, and verbal and physical abuse.

Employment agencies restrict the movement of prospective migrant workers for fear of losing their investment—the women’s transportation to the center, food and lodging, the processing of her documents, and the medical exam—that they will only recover after the workers have been placed in employment. Muriyani Suharti, a twenty-two-year-old Indonesian worker in Singapore, said, “The gates were locked and we could not go

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<sup>159</sup> Human Rights Watch interview with Muriyani Suharti, Indonesian domestic worker, age twenty-two, Singapore, March 8, 2005.

<sup>160</sup> Human Rights Watch interview with Tita Sari, Indonesian domestic worker, age twenty-four, Kuala Lumpur, Malaysia, February 26, 2004.

outside, even with permission. There were security guards. Some women tried to run away... I felt like I was in prison.”<sup>161</sup>

Conditions in the training centers in Indonesia are often deplorable. Ramnah Mansyur, age twenty-one, described her experience:

I slept on the floor without a mat and used my bag as a pillow. There were three hundred people there, all women... We were staying in a big room with no windows... There were three toilets but two were out of order. The water was not enough and the toilets were dirty. I took a bath twice a week, there were so many people that there were long lines... Many people wanted to run away but didn't know how... Some of the women had anxiety and were crazy, because it was very scary.<sup>162</sup>

As in the case at the opening of this section, Human Rights Watch documented cases in which labor agents and trainers verbally and physically abused women in the training centers to punish them for mistakes or as a tool for discipline. As Ira Novianti, twenty, explained, “If we made a mistake, they would get angry with us... Once I had to take [a heavy load of] water on my head and kneel in the sun for two hours because I didn't want to exercise in the morning. I didn't have any other problems, but others did. The staff would beat them with sticks and books.”<sup>163</sup> Another domestic worker remembered, “The agency would use angry words, bad words, they beat me. They beat me with a tree branch.”<sup>164</sup>

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<sup>161</sup> Human Rights Watch interview with Muriyani Suharti, Indonesian domestic worker, age twenty-two, Singapore, March 8, 2005.

<sup>162</sup> Human Rights Watch interview with Ramnah Mansyur, Indonesian domestic worker, age twenty-one, Lombok, Indonesia, January 26, 2004.

<sup>163</sup> Human Rights Watch interview with Ira Novianti, Indonesian domestic worker, age twenty, Lombok, Indonesia, January 25, 2004.

<sup>164</sup> Human Rights Watch interview with Semi binti Muskad, Indonesian domestic worker, Lombok, Indonesia, January 24, 2004.

## **Restrictions on freedom of movement and association**

*I never went outside, not even to dump the garbage. I was always inside, I didn't even go to the market. I felt like I was in jail.... I was not allowed to turn on the radio either.... I could only see the outside world when I hung clothes to dry.... My employer said, "Don't speak to anyone. Don't speak to friends or to the neighbors." I wasn't allowed to contact my relatives. I worked for three years. I had nobody to talk to. I asked my employers if I could return to Indonesia, and they said no. They said, "You have to make sure you finish your contract before you go back."... [Even] if I needed a panty liner, one of the children would be sent down to buy it for me.*

—Sri Mulyani, Indonesian domestic worker, age thirty, Singapore, February 19, 2005

Employers of domestic workers in a variety of countries use remarkably similar techniques to control and confine their employees, ranging from limiting their ability to contact family and friends, confiscating passports and immigration documents, to forced confinement in the household. Employers, agents, and even governments often defend these practices as necessary to protect the employer's household, the privacy of the family, and the personal security of the domestic worker, and to prevent workers from running away. Arbitrary denial of freedom of movement and association is abusive in its own right, and, as already noted elsewhere in this report, dramatically increases the vulnerability of domestic workers to economic exploitation, forced labor, intimidation, and sexual violence and harassment.

Employers typically impose severe restrictions on domestic workers' ability to communicate with the outside world. Domestic workers are often prohibited from using the household phone and from sending or receiving letters, and they are discouraged—often under threat of physical or other penalty—from talking with neighbors, other domestic workers, or shop-keepers. In some cases, this means migrant domestic workers are unable to communicate with their families. Mahiri Sopian, an Indonesian domestic worker in Kuala Lumpur who had family in Malaysia, told us,

My family sent me their phone number, but my employer kept it and did not give it to me. I cried inside. My father sent the addresses of my family in Malaysia, but my employer kept it and only gave it to me when

I returned to Indonesia. I never visited my relatives in Malaysia. My family thought I had died.<sup>165</sup>

Labor agents may be the first to condemn domestic workers to isolation, by stripping them of contact information and supporting employer restrictions on their movements and ability to communicate. Dewi Haryanti, an Indonesian domestic worker, said when she arrived in Singapore, “The labor agents searched our bodies. If they found letters or money, they took it, we couldn’t carry any addresses. They took it and they burned it, including telephone numbers.”<sup>166</sup> Agents may also counsel employers to deny domestic workers a day off or restrict their communications. One agent in Singapore said point-blank, “I’m against maids having friends. When they go down to the playground, they talk... [Employers] leave their house to the maid, they don’t know if their friends are good or bad. They leave their small babies with them.”<sup>167</sup> Another agent in Singapore said, “Some employers are very easy and give off days. I tell these employers, ‘you will spoil them.’”<sup>168</sup>

Domestic workers who breach employer rules about communicating with people outside the household may face severe retribution. A Filipina domestic worker in Singapore said her employer physically punished her when she spoke with the Indonesian maid next door. “When I threw out the rubbish, I would talk to her. Once I was outside just a few minutes... She [my employer] was very angry and pinched my two ears. She pinched and pulled my two ears and blood came out. This happened twice.”<sup>169</sup> Aisyah Fatah, a domestic worker whose employer did not provide her adequate food, was fired from her job in Singapore after she defied the prohibition from leaving the house to visit a nearby store. She said her trip to the store “is the reason my employer returned me to the agency... I had gone to buy coffee and bread.”<sup>170</sup>

Human Rights Watch spoke with migrant domestic workers who had been employed in Saudi Arabia, the United Arab Emirates, Malaysia, Singapore, and the United States whose employers forcefully confined them in the workplace. Edna, a thirty-year-old Filipina who is married with two children, worked for two years in a

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<sup>165</sup> Human Rights Watch interview with Mahiri Sopian, Indonesian domestic worker, age twenty-four, Lombok, Indonesia, January 26, 2004.

<sup>166</sup> Human Rights Watch interview with Dewi Haryanti, Indonesian domestic worker, age twenty, Singapore, February 27, 2005.

<sup>167</sup> Human Rights Watch interview with employment agent, Singapore, February 23, 2005.

<sup>168</sup> Human Rights Watch interview with employment agent, Singapore, March 1, 2005.

<sup>169</sup> Human Rights Watch interview with Lilia Jornadal, Filipina domestic worker, age twenty-five, Singapore, March 9, 2005.

<sup>170</sup> Human Rights Watch interview with Aisyah Fatah, Indonesian domestic worker, age twenty-one, Singapore, March 4, 2005.

household in Dammam, Saudi Arabia. During that time, her employers forbade her from leaving the house, with the exception of once or twice a month when she accompanied her employer to the home of the woman's mother, where she was required to do housework for several hours. When her employers went out, they locked Edna inside.<sup>171</sup>

Intimidation and threats are often as effective as locked doors in keeping domestic workers confined to the household. Rokeya Akhatar, a Bangladeshi domestic worker employed by a Middle Eastern businessman in the United States from July to September 1998, recalled, "I couldn't go out for even one second... I wasn't allowed to leave the house [alone] at all. [The family] told me that if I went outside, the police would arrest me because I did not have my papers [with me]. They said that without a green card, the police would arrest. [They said] America is bad and that it would be bad if I went outside as a single woman, so I never went outside. I was like a bird in a cage."<sup>172</sup> Another domestic worker on a temporary work visa in the United States told Human Rights Watch she was so frightened by what her employer told her that she didn't go out, even on her day off, for two-and-a-half years.<sup>173</sup>

Women and girls subjected to forced confinement and deprived of outside contact have little opportunity, if any, to seek help. These conditions lead some women to attempt dangerous escapes. In Jeddah, the second largest city in Saudi Arabia, an official at the King Fahd General Hospital reported in 2002 that two or three migrant women were being admitted on a weekly basis with serious fractures sustained in escape or suicide attempts from upper stories of their places of employment. A Filipina domestic worker in the United Arab Emirates said that after her employer returned her to the employment agency:

I was locked up inside the agency for forty-five days. We were Indonesians and Filipinos, twenty-five of us. We got food only once a day. We couldn't go out at all. The agency said we owed them 1,500 Dhm, three months' salary. Five of us ran away, we used a blanket to escape from the second floor. Four of us got injured.<sup>174</sup>

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<sup>171</sup> Human Rights Watch interview with Edna, Filipina domestic worker, age thirty, Quezon City, Philippines, December 21, 2003.

<sup>172</sup> Human Rights Watch interview with Rokeya Akhatar, Bangladeshi domestic worker, Astoria, New York, United States, March 5, 2000.

<sup>173</sup> Human Rights Watch interview with Margarita Pérez, Ecuadoran domestic worker, age nineteen at time of employment, Washington D.C., United States, April 8, 2000.

<sup>174</sup> Human Rights Watch interview with Cristina Suarez, Filipina domestic worker, age twenty-six, Dubai, UAE, February 27, 2006.

Eri Sudewo, an Indonesian domestic worker in Singapore, was rescued from a household where she had worked for two years without ever going outside, after tossing a letter pleading for help to a neighboring domestic worker. She told Human Rights Watch:

The outside door was locked. All the doors were locked, only the bathroom was open. The kitchen was locked. For one day, one week at a time, I would never eat anything. I was hungry, what could I do?... I had no day off, I never went outside. When the Filipina maid went outside to throw the rubbish, she would tell me [through the window], you must run, if you stay you will die.<sup>175</sup>

### **Legal status**

*It's very hard here. I know the laws, and that's why I'm scared. I hear rumors, if we don't have a passport, then if we get caught by the police, they put us in the lock-up, then they put us in the jungle in very scary places.*

—Kusmirah Parinem, Indonesian domestic worker, Kuala Lumpur, Malaysia, February 14, 2004

Migrant domestic workers on temporary employment-based visas encounter severely limited options for leaving abusive working conditions and for seeking redress. Employer and labor agency practices of confiscating passports and work permits compound the helplessness of these workers. Human Rights Watch met with women in Singapore, Malaysia, Saudi Arabia and the United States who felt they had no choice but to endure at times intolerable abuses for fear of arrest, detention, and deportation.

Employment-based visa structures in many countries contribute to situations that give rise to domestic worker abuse. In all four countries listed above, domestic workers who leave their employers, even for reasons of abuse, risk losing their legal status and may be imprisoned, fined and deported. While workers in Singapore, Saudi Arabia, the United States and, as of recently, Malaysia may attempt to transfer employers, this option may be limited, include punitive conditions such as transfer fees, and leave workers open to involuntary repatriation. Employers in Singapore, for example, have the right to deny a transfer during or even at the end of the standard two-year contract, and may repatriate

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<sup>175</sup> Human Rights Watch interview with Eri Sudewo, Indonesian domestic worker, age twenty-three, Singapore, March 4, 2005.

their domestic workers at will. This creates a strong power imbalance, especially when domestic workers are under financial stress to repay their debts or earn money to send home to families. Domestic workers on special employment visas in the United States working in the homes of foreign diplomats or officials in international organizations may only change employers under specific, rarely fulfilled conditions.

Malaysia's strict enforcement of its punitive immigration laws (see below), combined with the routine employer practice of confiscating passports, deter women from seeking help even when caught in abusive situations. Odah Bustami, a seventeen-year-old Indonesian domestic worker who had been confined to her employer's house, verbally and physically abused, and cheated out of her full salary, explained, "My employer kept my passport. I was scared to run away without my passport. I wanted to run away, but I was afraid the Malaysian government and security would catch me."<sup>176</sup>

Human Rights Watch found that employers in Singapore, Malaysia, Saudi Arabia, and the United States routinely confiscate passports and work permits, if indeed the workers are ever given possession of these permits in the first place. Migrant workers who escape their employers without valid identification documents face the risk of arrest and immigration detention.

Detention centers in Malaysia are often overcrowded, have substandard living conditions, and provide inadequate food. Detainees sleep on the floors without any bedding. Sadiyah, age thirty-seven, told Human Rights Watch about her experience:

"There were seventy-seven people in one room, all women... There were ten young girls. We had vegetables and rice, it was not enough food and I was hungry. They gave us food twice a day. The toilet was not clean... They would beat people sometimes, [but] they never beat or yelled at me."<sup>177</sup>

Unless a detainee has a friend or family member willing to pay for their ticket home, it can be months before an individual's embassy or the Malaysian government finally arranges for her deportation.

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<sup>176</sup> Human Rights Watch interview with Odah Bustami, Indonesian domestic worker, Lombok, Indonesia, January 25, 2004.

<sup>177</sup> Human Rights Watch interview with Sadiyah, Indonesian domestic worker, age thirty-seven, Lombok, Indonesia, January 24, 2004.



Adelina, a Filipina domestic worker in Saudi Arabia, was detained and held in prison on charges of forgery because her residency permit was not authentic. She pointed out that these permits are written in Arabic, which she cannot read, and that it is Saudi employers who are responsible for providing workers with these official identification documents. “How would I know that it was a fake? It’s so unfair that I should be the one in prison,” she argued.<sup>178</sup>

Immigration policies also have the effect of discouraging migrant domestic workers from lodging formal complaints against abusive employers. For example, migrant domestic workers must apply for a “special pass” to stay in Malaysia to pursue civil and criminal complaints; these carry the prohibitive cost of 100 ringgit (U.S.\$26.31) per month and do not allow the women to seek new employment for what can be a months-long investigation and trial. Faced with an indefinite stay, confined in a shelter, unable to earn money, and eager to return home after traumatic experiences, most migrant domestic workers avoided pressing charges, or dropped them even in cases where the police had arrested the employer. Ani Rukmono, a twenty-two-year-old Indonesian domestic worker, had been confined in her employer’s household, forbidden from using the telephone or writing or receiving letters, prohibited from fasting or praying, made to sleep on the floor in the kitchen or in front of the television, and regularly beaten. Ani told Human Rights Watch, “I was beaten every day and swollen. I was beaten badly three times, and the third time, my head was bleeding and my body broke and I lost consciousness.”<sup>179</sup> After the abuse was reported to police, she nonetheless dropped the criminal charges against her employer and settled for less than full payment of her salary because it would have taken too long to bring the case to trial.

## **Debt**

*They said they would cut my salary for seven months...If I changed employers, they would cut three more months. If I changed employers [repeatedly], I would come back with no money.*

—Wati Widodo, age twenty, Indonesian domestic worker, Singapore,  
March 10, 2005

Employment agencies typically charge migrant domestic workers a recruitment and placement fee. Agencies in Singapore charge workers between S\$1,400 (U.S.\$875) and

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<sup>178</sup> Letter to Human Rights Watch, January 30, 2003.

<sup>179</sup> Human Rights Watch interview with Ani Rukmono, Indonesian domestic worker, Kuala Lumpur, Malaysia, February 26, 2004.

S\$2,100 (U.S.\$1,312), while licensed agencies in Indonesia charge U.S.\$1,500. Unable to pay such large fees, domestic workers reach agreements with agents and employers to turn over their first several months of pay. Indonesians working in Singapore and Malaysia typically begin working with deductions of six to ten months' salary; Sri Lankans and Filipinas often have three to six months salary withheld. Illegal agencies operating in Indonesia tend to charge an initial fee—usually 1.5-2 million rupiah (U.S.\$183-244)—that most domestic workers wishing to migrate pay by borrowing from the agent, village moneylenders, family or friends at usurious interest rates. Domestic workers from the Philippines and Sri Lanka also borrow money to pay initial medical and passport fees, sometimes mortgaging their land.

Exorbitant initial fees and long debt repayment periods place migrant workers in a highly vulnerable position. Migrant domestic workers feel enormous pressure to keep working as long as they can so they can repay their debt and start earning a salary, even when faced with intolerable situations. Ramnah Mansyur's story is all too common. A twenty-one-year-old Indonesian woman whose employer in Malaysia fondled her, hugged her, offered to pay her money to have sex, and came into her bed at night and tried to touch her, she told Human Rights Watch, "The lady didn't know. I was afraid to tell her because the man was threatening me, 'don't tell my wife or you will see'... Since I knew I had to pay back three months of salary, I tried to withstand it."<sup>180</sup>

Employment agents similarly have a strong interest in workers' remaining at a job until they have repaid their debt, and are thus less likely to help a worker out of an abusive situation. Wati Widodo, a twenty-year-old Indonesian working in Singapore, was compelled to stay with an employer who physically abused her in order to pay off her debt:

When I told the agent the employer had slapped me, she just said, "you must suffer. You should control your feelings." If a maid hasn't finished her salary deduction, and she calls the agent, the agent is angry. The agent also slapped me; they didn't want me to leave without finishing the contract and the salary deduction.<sup>181</sup>

Indonesian workers in Malaysia reported that labor agents told them or implied that if they did not repay debts or complete the two-year contracts, they would face large fines

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<sup>180</sup> Human Rights Watch interview with Ramnah Mansyur, Indonesian returned domestic worker, age twenty-one, Lombok, Indonesia, January 26, 2004.

<sup>181</sup> Human Rights Watch interview with Wati Widodo, Indonesian domestic worker, age twenty, Singapore, March 10, 2005.

or be trafficked into forced prostitution. A recurring threat appears to be that women will be sent to Batam, an area notorious for sex trafficking. One domestic worker said agents threatened them with retaliation against their friends still in training centers back in Indonesia awaiting placement. “We had to take care of our friends,” she said, “so we had to keep quiet.”<sup>182</sup>

The fees charged by Singaporean employment agencies for transferring employment contribute to keeping women in abusive working conditions. Agents often charge daily rates for food and lodging for the period between employment, often between S\$10-20 (U.S.\$6-12) per night, and a fee for the transfer, which can range from one to three months’ salary. Endang Utari, an Indonesian domestic worker in Singapore, paid even more when she requested a transfer from an employer. She explained, “The deduction was very high. I stayed with the agency for one month only but they deducted four months of my salary. Four months for the transfer and seven months for the initial fee—how come?”<sup>183</sup>

Unreasonably heavy debts, when combined with other conditions such as forced confinement, work under threat, and deception about working conditions, can give rise to situations of forced labor and debt bondage. This is discussed more fully in Chapter II, above.

### ***Reproductive, marriage and sexual rights***

*I am single... we are working, we must follow the rules. The employer pays a S\$5,000 (U.S.\$2,950) bond so maids won't get pregnant or marry a Singaporean.... I want to have a boyfriend... but my employer says I cannot.*

—Michele Udarbe, age forty-two, Filipina domestic worker, Singapore, February 23, 2005

National laws and immigration policies in several countries restrict migrant domestic workers’ reproductive, marriage and sexual rights. These workers face pregnancy-based discrimination both pre-departure and once in employment. If they become pregnant after placement, they will be forced to choose between carrying a pregnancy to term and keeping their jobs. Securing voluntary abortions, even in cases of rape, can be difficult if

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<sup>182</sup> Human Rights Watch interview with Dewi Haryanti, Indonesian domestic worker, age twenty, Singapore, February 27, 2005.

<sup>183</sup> Human Rights Watch interview with Endang Utari, Indonesian domestic worker, age thirty-one, Singapore, February 25, 2005.

not impossible in countries like Saudi Arabia. Immigration policies, as in Singapore, that forbid migrant domestic workers from marrying nationals of the country where they are employed violate their rights to freely enter marriage and decide for themselves matters relating to their private lives.

Attempts to control workers' sex lives and relationships often reflect an underlying fear that foreign women workers pose a sexual and social threat to families. They also reinforce the commonly-held and self-serving stereotypes about domestic workers being promiscuous that employers use to justify restricting migrant domestic workers' freedom of movement.

Immigration policies in many countries of employment require that all migrant workers be tested for pregnancy (as well as HIV, tuberculosis, malaria and other infectious diseases) before they arrive. Workers either pay for these tests themselves or the cost is included in their initial salary deduction. Employers and labor agents often re-test workers upon arrival in the host country. Prospective migrant domestic who test positive for pregnancy will be denied entry or deported; in some cases, they are given the option to have an abortion as a precondition for remaining and entering employment. Indonesian domestic workers told Human Rights Watch that the procedures for these tests rarely provide for fully informed consent, confidentiality, or counseling or care post-exam. As Ramnah Mansyur explained, "I took a full medical exam, with a blood and urine test. They did not give me the results, they just told me I was 'fit.' I also took another exam in Jakarta. Pregnant women failed. They were sent back home, but if they wanted an abortion they could stay. Two girls had an abortion and three went back home."<sup>184</sup>

Singapore's immigration policies similarly discriminate against migrant domestic workers on the basis of reproductive status. These workers must undergo state-mandated medical examinations every six months, including pregnancy and HIV testing, whereas other foreign workers are subject to medical examinations only once every two years. Immigration policies dictate that any domestic worker found to be pregnant must either voluntarily terminate the pregnancy, or lose her job and face deportation. There is a widespread misconception that domestic workers may not obtain a legal abortion, a procedure that is legal in Singapore until the twenty-fourth week of gestation. Desperate to keep their jobs, some may turn to illegal and unsafe abortions. One labor agent told Human Rights Watch: "Abortion is illegal for maids... Sometimes we become the

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<sup>184</sup> Human Rights Watch interview with Ramnah Mansyur, Indonesian domestic worker, age twenty-one, Kuala Lumpur, Malaysia, February 26, 2004.

doctors ourselves, we start buying the pills, mixing them with water! But if she has caused me trouble, I repatriate her with the baby.”<sup>185</sup>

Many employers in Singapore also believe they will forfeit the S\$5,000 (U.S.\$2,950) bond they must put up when they hire a migrant domestic worker if the worker becomes pregnant. Though untrue, this belief serves as a rationale for forbidding their domestic worker from dating and for controlling their domestic workers’ movements. These practices infantilize adult women by assuming they cannot make independent and wise choices about their personal lives; they also can lead to situations of virtual forced confinement.

In the name of controlling unemployment levels, Singapore’s immigration policies also prohibit migrant domestic workers from marrying or cohabitating with Singaporean citizens or permanent residents. The Singaporean Controller of Work Permits is authorized to grant exceptions, but few domestic workers know about this possibility. Apparently, some 15 percent of applications are rejected. If a domestic worker applies to get married to a Singaporean, and the application fails, she may lose her job and be repatriated. Work permit regulations also explicitly forbid domestic workers from “breaking up families in Singapore.”<sup>186</sup>

In Saudi Arabia, migrant domestic workers living in that country without husbands have faced arrest and imprisonment for becoming pregnant through rape or consensual sex. Consensual sexual relations between unmarried couples are prohibited under the Saudi’s judiciary interpretation of *shari’a*. In January 2003, Human Rights Watch encountered several young Indonesian women with their newborn babies in Malaz women’s prison in Riyadh, reportedly imprisoned for “illegal pregnancies.” The Indonesian embassy in Riyadh documented in 2001 the cases of ninety-two migrant women who were imprisoned in the Kingdom. Almost half of them had been arrested for being in the company of men who were not their husbands. Another 16 percent were in custody because they were raped, pregnant, or gave birth.

Migrant domestic workers who become pregnant, either through consensual sex or rape, face formidable barriers to securing a voluntary abortion in Saudi Arabia, where legal abortions are not permitted even in cases of rape or incest. Rather, procedures to terminate pregnancies are permitted only for specifically defined and medically documented reasons, for example to save a woman’s life. However, abortions in such

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<sup>185</sup> Human Rights Watch interview with labor agent, Singapore, February 23, 2005.

<sup>186</sup> Conditions of Work Permit/Visa Pass for Foreign Workers, Section 12, Singapore.

circumstances, if after the fourth month of pregnancy, can only be performed with the written consent of the husband or male guardian.

### ***Language and religion***

*When I was working, I was not allowed to pray or to fast.*

—Tita Sari, domestic worker, Kuala Lumpur, Malaysia, February 26, 2004

In some cases, religious intolerance and restrictions on freedom of movement lead to violations of migrant domestic workers' right to freely practice their religion. In Singapore and Malaysia, Human Rights Watch interviewed migrant domestic workers who reported being forbidden from attending church if they were Christian, or praying or fasting if they were Muslim. In many cases, employment agents were the first to order domestic workers to stop praying, and to confiscate their holy books, prayer shawls, and prayer rugs. Tuti Prihatin, a twenty-six-year-old Indonesian domestic worker in Singapore, told Human Rights Watch, "[T]hey don't give us freedom to practice our religion... If you want me to stay here, I must practice my religion. If I pray, I remember my God. The Singapore agency took my Holy Koran. It made me very, very sad. Even money is less important to me."<sup>187</sup> The common employer practices of denying a weekly day of rest, confining migrant domestic workers to the household, and prohibiting them from speaking their own language in public also interfere with their right to practice their religion and denies them opportunities to meet and socialize with members of their own community.

Intolerance of religious diversity in Saudi Arabia has been well documented, and migrant workers who are not Muslims but are religiously observant must adjust to the absence of houses of worship for their religious faiths, refrain from public displays of religious symbols, and proceed with private worship in community with others with caution.

### ***International human rights law and government response***

In recognition of the abuses that migrants face and their heightened vulnerability by working and living in countries other than their own, the United Nations created a major international human rights treaty, the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (Migrant Workers Convention).

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<sup>187</sup> Human Rights Watch interview with Tuti Prihatin, Indonesian domestic worker, age twenty-six, Singapore, March 26, 2005.

Finalized in 1990, the Migrant Workers Convention came into force on July 1, 2003. While several labor-sending countries such as the Philippines and Sri Lanka have ratified the Convention, most labor-receiving countries, including Singapore, Malaysia, Saudi Arabia, and the United States have not agreed to be bound by the Convention. The Convention expressly prohibits holding migrant workers in slavery or servitude and requiring migrant workers to perform forced or compulsory labor, and guarantees migrants a range of civil, political, social, economic and cultural rights.

International law protects both the right to freedom of movement and the right to freedom of association. The Universal Declaration of Human Rights provides for the right to freedom of movement and the right to return to one's country, as do the International Covenant on Civil and Political Rights and the Migrant Workers Convention.<sup>188</sup> In addition to its legal basis under treaty law, the right to return to one's own country has increasingly been recognized as a norm of international customary law. The UDHR and the ICCPR guarantee the right to freedom of association;<sup>189</sup> this right is further developed in several ILO Conventions, most notably the Freedom of Association and Protection of the Right to Organise Convention (Convention No. 87) and the Right to Organise and Collective Bargaining Convention (Convention No. 98).

In the most extreme cases, around-the-clock confinement places women workers in conditions of servitude, a violation of one of the most basic protections in international human rights law. The UDHR, the ICCPR, the Migrant Workers Convention and the Supplemental Slavery Convention prohibit servitude and practices similar to slavery.<sup>190</sup> Forced confinement by definition also deprives the victims of the basic rights to liberty and security of person guaranteed in the UDHR and the ICCPR.<sup>191</sup>

In some cases, forced confinement of migrant women workers may also violate provisions of CEDAW and the Convention on the Elimination of All Forms of Racial Discrimination (CERD). CEDAW requires state parties to “accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.”<sup>192</sup> CERD requires the government to prohibit and eliminate racial discrimination that prevents the enjoyment of the “right to security of person and protection by the State against violence or bodily harm, whether

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<sup>188</sup> UDHR, art. 13; ICCPR, art. 12; and Migrant Workers Convention, art. 8.

<sup>189</sup> UDHR, art. 20 and ICCPR, art. 22.

<sup>190</sup> UDHR, art. 4; ICCPR, art. 8; Migrant Workers Convention, art. 11; and Supplemental Slavery Convention, art. 1.

<sup>191</sup> UDHR, art. 3; ICCPR, art. 9.

<sup>192</sup> CEDAW, art. 15(4).

inflicted by government officials or by any individual group or institution,” and the “right to freedom of movement and residence within the border of the State.”<sup>193</sup>

The Migrant Workers Convention reiterates the fundamental right of all people to liberty and security of person and provides for procedural safeguards for migrants who are arrested or detained on a criminal charge, including the right to equality with nationals before the courts and tribunals; the right to be informed in a language they understand of the reasons for the arrest and the charges against them; the right to legal assistance; the right to communicate with consular officials from their own country; and the right to the free assistance of an interpreter in legal proceedings.<sup>194</sup> It also prohibits the confiscation and destruction of identity documents and work permits except by a public official duly authorized by law,<sup>195</sup> and stipulates that legal migrants shall have the right to liberty of movement and freedom to choose their residence.<sup>196</sup>

Pregnancy-based discrimination is a form of sex discrimination proscribed by international law. CEDAW specifically addresses the issue of reproductive rights in the workforce by requiring all states parties to prevent discrimination against women on the grounds of maternity and bar dismissal on the grounds of pregnancy.<sup>197</sup> ILO Convention No. 111 concerning Discrimination in Respect to Employment and Occupation prohibits discrimination on the basis of sex with respect to access to employment and conditions of employment, and the ILO Maternity Protection Convention 2000 (No. 183) calls explicitly on ratifying member states to eradicate pregnancy testing as a form of employment discrimination based on sex.<sup>198</sup>

International law protects the right to the highest attainable standard of physical and mental health. CEDAW prohibits discrimination against women in the field of health care and requires states to take all appropriate measures to eliminate such discrimination “in order to ensure, on a basis of equality between men and women, access to health-care services, including those related to family planning.”<sup>199</sup> It also provides that states parties “shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.”<sup>200</sup> The CEDAW Committee has

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<sup>193</sup> ICERD, art. 5(b) and (d)(1).

<sup>194</sup> Migrant Workers Convention, art. 16 and 18.

<sup>195</sup> *Ibid.*, art. 21.

<sup>196</sup> *Ibid.*, art. 39.

<sup>197</sup> CEDAW, art. 11(2).

<sup>198</sup> ILO Convention No. 183, art. 9(2).

<sup>199</sup> CEDAW, art. 12(1).

<sup>200</sup> *Ibid.*, art. 12(2).



clarified that states should not restrict women's access to health services on the grounds that they do not have authorization from husbands, partners, parents or health authorities or on the basis of marital status. It has also called for abolishing laws that "criminalize medical procedures needed [only] by women and punish women who undergo those procedures," such as abortions.<sup>201</sup>

The UDHR establishes "the right to freedom of thought, conscience, and religion...and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance."<sup>202</sup> This right is articulated in various international treaties, including the ICCPR and the Migrant Workers Convention.<sup>203</sup> The UDHR and the ICCPR guarantee the right to cultural life and identity; the Migrant Workers Convention stipulates that states parties "ensure respect for the cultural identity of migrant workers... and shall not prevent them from maintaining their cultural links with their State of origin."<sup>204</sup>

Increased international attention to the situation of migrants, as well as some high-profile cases of abuse against migrant domestic workers in several countries, has prompted some national-level reforms. For instance, in October 2004 Indonesia adopted Law No. 39/2004 on Placement and Protection of Indonesian Migrant Workers Overseas. This legislation focused more on recruitment procedures than on protections for migrants, yet represented an effort to begin regulating migration more closely and to provide stronger oversight through national legislation rather than ministerial decrees. Singapore has instituted education programs for both workers and employers and launched important public information campaigns.

Unfortunately, to date most government efforts tend to provide only partial solutions to endemic problems, however, and have failed to address the overall context of discrimination in employment laws and punitive immigration policies that place migrant domestic workers at risk.

Oversight of licensed employment agencies—a key element of any strategy to combat abuses in recruitment and training—is highly inadequate in most countries. The Malaysian Immigration Department, for instance, has a small Housemaid Unit in the

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<sup>201</sup> CEDAW Committee, General Recommendation No. 24, Twentieth session, 1999.

<sup>202</sup> UDHR, art. 18.

<sup>203</sup> ICCPR, art. 18; Migrant Workers Convention, art. 12. It is also guaranteed by article 14 of the Children's Rights Convention and the U.N. Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief, U.N.G.A. Res. 36/55, November 25, 1981.

<sup>204</sup> Migrant Workers Convention, art. 31.

Foreign Workers Department, which has the power to remove licenses from labor agencies and to blacklist employers. The unit consisted of two people in 2004 and did no real monitoring or investigation of abuses, receiving few complaints because most domestic workers were unaware of its existence. We were told by one of the staffers in 2004 that the Unit had blacklisted fewer than twenty agencies. In Singapore, the government agency charged with licensing and oversight of employment agencies responds to complaints, but does not use other legal tools at its disposal to curb abuses, such as imposing caps on recruitment fees. In Indonesia, once a labor agency has a license it does not have to undergo a review to renew it periodically. Though the Indonesian Ministry of Manpower and Transmigration has the authority to cancel or suspend licenses, recourse to these measures is rare as the ministry does not monitor labor suppliers regularly or rigorously.

As documented above, immigration policies in receiving countries can discourage migrant workers from reporting abuse. This appears particularly true in Malaysia, where migrant domestic workers who might otherwise attempt to escape abusive situations are terrified by that country's strict enforcement of immigration laws. Immigration offenses can result in penalties of caning, five years of imprisonment, heavy fines, and indefinite detention. An immigration official in Malaysia told Human Rights Watch: "Our enforcement is quite active. Lots of Indonesians and Filipinas come to be a housemaid, they run away and they get caught. We put them in a detention camp and send them home. We blacklist the maid."<sup>205</sup> In a welcome move, Malaysia amended its laws in August 2004 to allow domestic workers to transfer employers twice during their two-year stint in Malaysia.<sup>206</sup> Human Rights Watch had found that the previous prohibition on employment transfers had contributed to keeping migrant domestic workers in abusive work situations.

In most countries, national constitutions guarantee the rights to freedom of movement and association. These provisions may be afforded only to citizens, however, as in Malaysia, leaving migrant workers unprotected. In other countries, government policies have the effect of encouraging employers to restrict their employees' movements. In a positive move, the Singaporean government amended its criminal code to make forced confinement of a domestic worker an aggravated offense and increased the penalty by 1.5 times. Yet the Singaporean government makes employers pay a S\$5,000 (U.S.\$2,950) bond for foreign domestic workers, money that will be forfeited if the employee runs

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<sup>205</sup> Human Rights Watch interview with Matthew Barin, assistant director, Housemaid Unit, Foreign Workers Department, Department of Immigration, Kuala Lumpur, Malaysia, February 24, 2004.

<sup>206</sup> Asian Migration News, Scalabrini Migration Center bi-weekly information service, "Addressing the problems of foreign domestic workers," August 15, 2004, [online] <http://www.smc.org.ph/amnews/amn040815/southeast/malaysia040815.htm> (retrieved March 8, 2006).

away.<sup>207</sup> Combined with employers' fears of domestic workers meeting boyfriends, becoming pregnant, or stealing household items, this contributes to many employers placing tight restrictions on the workers' mobility and communication with others.

Furthermore, to date enforcement of Singapore's new penalties for forced confinement has been rare: there were three reported cases of wrongful confinement between January and September 2005. The Ministry of Home Affairs stated that "of the three cases, one offender was warned while no further action was taken in the others as the parties did not want to pursue the matter further."<sup>208</sup>

Elsewhere there appears to be widespread tolerance, if not endorsement, of practices that limit domestic workers' movements. In Saudi Arabia, no concerted steps have been taken to ensure that migrant domestic workers may keep their passports and are provided their government-issued residency permits. Bilateral agreements between Indonesia and Malaysia actually permit employers to hold foreign workers' passports.

While most labor-sending countries provide attention to migrant domestic workers who have suffered abuses, the level and quality of assistance varies greatly, and rarely meets the full range of needs these workers have. Embassies in receiving countries typically provide aid to migrant domestic workers who flee abusive situations; some have temporary shelters where workers can live while the embassy assists them in returning home or pressing charges against their employers, while others refer domestic workers to private local shelters. Embassy personnel often mediate settlements between employers and domestic workers over wages. The Indonesian embassy in Malaysia runs a small shelter that is often overcrowded, and domestic workers may have to wait for months before their cases are fully processed due to the high numbers of women seeking shelter and aid. There are limited or no psychological services, a critical gap given the trauma many have suffered.

In Indonesia, government and NGO representatives have established monitoring systems at Soekarna-Hatta Jakarta International airport to screen returning migrant workers, inform them about their rights, and identify those needing medical attention.

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<sup>207</sup> All U.S. currency figures in this report reflect the exchange rate at the time of the research.

<sup>208</sup> Email correspondence from the Ministry of Home Affairs, Singapore, to Human Rights Watch, November 29, 2005.

## **Recommendations**

### ***To Labor Ministries***

- Establish mechanisms for regular and independent monitoring of labor agencies to ensure their compliance with regulations on recruitment, training, travel, work placements, and termination of contracts, including through unannounced inspections.
- Conduct inspections of workplaces and improve mechanisms to investigate and respond to complaints of unpaid wages and abuse.
- Adopt improved regulations for pre-departure training centers that delineate minimum health and safety conditions, protect women workers' freedom of movement, outline standards for treatment of trainees. Create effective mechanisms to enforce the regulations.
- Cap recruitment and agency fees, and regulate salary deduction arrangements.
- Create and widely disseminate a guide for domestic workers in appropriate languages about their rights and provide orientation to migrant domestic workers upon arrival, including information about workers' rights and how to seek assistance.
- Create and publish a guide for employers about the treatment of domestic workers and provide trainings to educate employers about their legal responsibilities, including respecting migrant workers' rights to freedom of movement, association, and religion.
- Provide orientation programs for employers and domestic workers.

### ***To Heads of State and Government, and Parliaments***

- Review and repeal immigration policies that have the effect of restricting access to mechanisms for redress for abuses, and adopt immigration policies facilitating the stay and employment of migrant domestic workers while waiting for the completion of an investigation into a labor complaint or criminal prosecution.
- Adopt multilateral labor agreements that protect migrant domestic workers' rights by:
  - Establishing recruitment, training and placement policies that fully protect domestic workers' human rights. Develop a mechanism for

monitoring these processes, including workers' transit to and from the country of employment.

- Include provisions for a standard contract. The contract should clearly define work responsibilities and include regulations on hours of work, rest days, regular payment of wages, and compensation for injuries. These provisions should meet the standards outlined in national labor laws.
- Protect migrant domestic workers' freedom of association, freedom of movement, right to health, and other human rights.
- Repeal immigration, employment and criminal laws that discriminate against women on the basis of their reproductive status, including ending as an urgent matter the arrest and imprisonment of migrant women who become pregnant through consensual sex or because they were victims of sexual violence.
- Repeal policies that prohibit migrant domestic workers from marrying, or have the effect of denying their right to sexual autonomy.
- Ensure migrant domestic workers' full access to appropriate health care services, including legal family planning services and pre-natal care.

### *To the Police, Attorney General's Offices, and the Judiciary*

- Guarantee equality to migrant domestic workers in respect to the criminal justice system, including ensuring that all those detained on suspicion of committing a criminal offense have access to free legal aid and the assistance of an interpreter.
- Implement training programs for police officers and immigration officials to identify trafficking victims and domestic workers who have experienced abuse. The police should have a protocol for handling cases of abuse including immediate health care and social service referrals.
- Prosecute employers and employment agencies who violate the rights of migrant domestic workers according to national laws, including for forced confinement. Provide civil remedies, including monetary damages that migrant domestic workers can pursue.
- Impose meaningful penalties on employers who withhold passports and other identification documents from migrant domestic workers.

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## **Appendix A – Human Rights Watch reports on domestic workers**

Inside the Home, Outside the Law: Abuse of Child Domestic Workers in Morocco, December 2005

<http://hrw.org/reports/2005/morocco1205/>

Maid to Order: Ending Abuses against Migrant Domestic Workers in Singapore, December 2005

<http://hrw.org/reports/2005/singapore1205/>

Always on Call: Abuse and Exploitation of Child Domestic Workers in Indonesia, June 2005

<http://hrw.org/reports/2005/indonesia0605/>

Help Wanted: Abuses against Female Migrant Domestic Workers in Indonesia and Malaysia, July 2004

<http://hrw.org/reports/2004/indonesia0704/>

Bad Dreams: Exploitation and Abuse of Migrant Workers in Saudi Arabia, July 2004

<http://hrw.org/reports/2004/saudi0704/>

Child Domesticics: The World's Invisible Workers, June 2004

<http://hrw.org/english/docs/2004/06/10/africa8789.htm>

No Rest: Abuses against Child Domestic Workers in El Salvador, January 2004

<http://www.hrw.org/reports/2004/elsalvador0104/>

Borderline Slavery: Child Trafficking in Togo, April 2003

<http://www.hrw.org/reports/2003/togo0403/>

From the Household to the Factory: Sex Discrimination in the Guatemalan Labor Force, January 2002

<http://hrw.org/reports/2002/guat/>

Hidden in the Home: Abuse of Domestic Workers with Special Visas in the United States, June 2001

<http://www.hrw.org/reports/2001/usadom/>

Punishing the Victim: Rape and Mistreatment of Asian Maids in Kuwait, August 1992 (updated 1994).

Available on request.



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## Swept Under the Rug

### Abuses against Domestic Workers Around the World

Millions of women and girls around the world turn to domestic work as one of the few options available to them in order to provide for themselves and their families. Instead of guaranteeing their ability to work with dignity and freedom from violence, governments have systematically denied them key labor protections extended to other workers.

Since 2001, Human Rights Watch has conducted research on abuses against domestic workers originating from or working in El Salvador, Guatemala, Indonesia, Malaysia, Morocco, the Philippines, Saudi Arabia, Singapore, Sri Lanka, Togo, the United Arab Emirates, and the United States.

The long list of abuses committed by employers and labor agents against domestic workers includes physical, psychological, and sexual abuse; forced confinement in the workplace; non-payment of wages; and excessively long working hours with no rest days. In the worst situations, women and girls are trapped in situations of forced labor or have been trafficked into forced domestic work in conditions akin to slavery.

This compendium sets out our findings with respect to the following overlapping categories: criminal abuses common to domestic workers; labor abuses common to domestic workers and exclusion from labor laws; concerns specific to child domestic workers; and concerns specific to migrant workers.

The report discusses best and worst government responses and practices. Key recommendations for action include extending standard labor protections to domestic workers, regulating and monitoring recruitment practices and working conditions, imposing civil and criminal sanctions on abusive agencies and employers, and providing comprehensive services to domestic workers who have experienced abuse.

In Malang, Indonesia, prospective domestic workers clean the facilities of their training center prior to migrating for employment in Singapore, Hong Kong, and Taiwan.

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