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**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

## **Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Gulnara Shahinian**

### *Summary*

Following a brief overview of activities, the Special Rapporteur focuses on the manifestations and causes of domestic servitude and issues recommendations on how to end this global human rights concern.

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## **I. Introduction**

1. Following a brief overview of the mandate's activities pursuant to Human Rights Council resolution 6/14, the Special Rapporteur focuses on domestic servitude, one of the priority areas she identified for her work (see A/HRC/9/20).

## **II. Activities of the mandate**

### **A. Country visits**

2. From 24 October to 4 November 2009, the Special Rapporteur conducted a mission to Mauritania (see A/HRC/15/20/Add.2) to engage in a dialogue with the Government about the effectiveness of the Mauritanian policies, laws and specific programmes to combat slavery.

3. From 25 January to 1 February 2010, she visited Ecuador (see A/HRC/15/20/Add.3) at the request of the Government to engage in a dialogue with the Government in order to assess the impact of the Ecuadorian National Plan for the Prevention and Progressive Eradication of Child Labour.

4. From 17 to 28 May 2010, the Special Rapporteur went to Brazil to discuss good practices and challenges in the efforts of Brazil to combat slavery in all its forms, in particular forced labour (see A/HRC/15/20/Add.4). In the course of her mission, she also attended the multi-stakeholder Forced Labour Conference organized by the Government.

5. The Special Rapporteur is grateful to the Governments of Mauritania, Ecuador and Brazil for their cooperation and the assistance extended to her in the preparation and conduct of these visits. She also thanks representatives of United Nations agencies, non-governmental organizations and other stakeholders she met with for providing support and valuable insights. Most importantly, the Special Rapporteur thanks the victims and survivors of slavery who had the courage to share their stories with her.

6. The Special Rapporteur welcomes the invitations of Romania and Italy to carry out country visits. She would appreciate receiving invitations from the countries to which she has sent requests for visits: Bangladesh, Lebanon, Nepal, Peru, Qatar, Sudan and Uzbekistan.

### **B. Other activities**

7. Since her last report, the Special Rapporteur, jointly with other mandates, sent communications on alleged cases of concern to her mandate to India, Kazakhstan and Uzbekistan (see A/HRC/15/20/Add.1).

8. During the course of the year, the Special Rapporteur participated in various conferences relevant to the mandate. She also held consultations with Governments, as well as United Nations agencies, non-governmental organizations and other stakeholders. By way of example, the Special Rapporteur would like to highlight the following.

9. On 17 September 2009, the Special Rapporteur attended the annual meeting of the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery, where she presented her thematic report on debt bondage, the outcomes of her missions and ways in which the Fund can support with follow up. In relation to the thematic focus of this report,

the Special Rapporteur noted with satisfaction that the Fund supported 17 projects that address domestic servitude in 2009.

10. On 15 June 2010, the Special Rapporteur and the Office of the High Commissioner for Human Rights hosted an expert consultation on domestic servitude, which provided valuable input for the thematic focus area of this report.

### **III. Domestic servitude: A global human rights concern**

11. In the shadow of global domestic work industry, large numbers of people – in the majority, women and girls – find their dignity denied. They suffer invisibly in domestic servitude, contrary to the Universal Declaration of Human Rights (art. 4) and human rights treaty law.

#### **A. Domestic work: Between opportunity and vulnerability**

12. Domestic work constitutes one of the largest, yet least visible service industries in the world. The International Labour Organization (ILO) estimates that between 4 and 10 per cent of the employed workforce in developing countries is engaged in domestic work.<sup>1</sup> For industrialized countries, the figure stands between 1 and 2.5 per cent of total employment. Demand for domestic work is spurred by an increase in women's employment without matching policy measures to facilitate the reconciliation of work and family life and an aging population coupled with a trend to move towards more home care. Furthermore, there is a correlation between an increase in income inequalities in a country and an increase in domestic work.<sup>2</sup> In some countries, hiring domestic workers has become a new status symbol signifying belonging to the middle or upper class.

13. Domestic work is work performed in or for a household and includes cooking, cleaning, washing, gardening, being a chauffeur, taking care of children, the elderly and domestic pets. It remains a highly gendered activity. Throughout the world, the vast majority of domestic workers are women. Women's share of total domestic employment stands at 83 per cent in Switzerland, 93.3 per cent in Brazil and 90.7 per cent in Ethiopia.<sup>3</sup>

14. Employment patterns vary. In the Middle East and many Asian countries, domestic workers, women in particular, are typically expected to live in the employer's households. In Europe and a growing number of Southern American countries, a higher proportion of domestic workers live on their own, often working for more than one employer.

15. Domestic workers provide an indispensable contribution to society. If fair labour practices are ensured, the sector can offer domestic workers opportunities to earn an additional salary for their families, to move to and pursue educational options only available in urban settings or, in the case of au pairs, to have the opportunity to experience another country and culture.

16. While it would therefore be inappropriate to stigmatize domestic workers or their employers, the specificities of the sector make domestic workers particularly vulnerable to economic exploitation, abuse and, in extreme cases, subjugation to domestic servitude and

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<sup>1</sup> ILO, "Decent work for domestic workers", report IV(1) (2009), para. 20.

<sup>2</sup> R. Milkman, E. Reese and B. Roth, "The macro-sociology of paid domestic labour", in *Work and Occupations*, vol. 25, No. 4, pp. 483-507.

<sup>3</sup> For more comprehensive statistics see "Decent work for domestic workers", para. 20 (table I.1).

domestic slavery. Domestic workers, especially if they live with their employers, often find themselves physically and socially isolated from their families, friends and peers.

17. Their physical and social isolation, which is at times deliberately fostered by unscrupulous employers, interferes with their human right to freely organize and associate. The highly personalized relationship with the employer makes collective bargaining very difficult. Despite these obstacles, domestic workers are increasingly forming organizations. There are now a number of domestic workers associations doing outstanding work and some pioneers have even organized themselves into domestic worker cooperatives. Labour unions also increasingly incorporate domestic workers.

18. Domestic workers are often “physically invisible” to the general public. More importantly, much as in other gendered relationships, domestic work is deliberately made invisible to public scrutiny: A “private sphere” is socially constructed, where labour relationships are supposedly beyond State or social control. This thinking is reminiscent of archaic arguments that sought to condone domestic violence against women or children as a “private matter”, rather than recognizing the crimes that such acts constitute.

19. There is a misperception that domestic work is unskilled work or does not constitute work at all; just like women’s unpaid work in the family is undervalued. The relationship between domestic worker and employer is mistakenly perceived as status-based, with a superior master commanding an inferior servant, rather than a contractual arrangement between parties with mutual rights and obligations. In a modern variant of this perception problem, domestic workers are regarded as “members of the family”. Depending on the will of the employer, this can mean very favourable treatment or intolerable encroachment on their personal space and liberties.

20. In recent years, the migration of women for domestic work has rapidly grown and become one of the key factors in the ongoing feminization of migration. An entire industry of migrant domestic work has evolved, driven by a surging demand for domestic work in richer countries, stark global income inequalities and transnational recruitment agencies. Migrants, mainly women from Asia, are now the largest group of domestic workers in the Middle East and Europe.<sup>4</sup> Domestic work opportunities draw migrant women with little formal education and more educated women lacking linguistic qualifications or the internationally accepted diplomas to find other types of work.

21. A precarious visa and immigration status, unfamiliarity with the local context and language and discrimination make migrant domestic workers particularly vulnerable to exploitation, abuse and subjugation to slavery-like practices.

22. The Special Rapporteur is particularly concerned about the high number of children in domestic work (see section 2c). Children are often sought for domestic work as they are seen as cheaper, less demanding and easier to control than adults. There are large numbers of child domestic workers in all continents, with the highest number probably residing in Asia. For example, ILO reports that 175,000 children under 18 are employed in domestic service in Central America, more than 688,000 in Indonesia, 53,942 children under 15 in South Africa and 38,000 children between 5 and 7 in Guatemala.<sup>5</sup> Girls constitute the vast majority of child domestic workers (90 per cent according to some estimates). According to ILO, more girls under 16 years are in domestic service than in any other category of child labour.<sup>6</sup>

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<sup>4</sup> “Decent work for domestic workers”, para. 21.

<sup>5</sup> See ILO, “Domestic labour: Global facts and figures in brief”. Available from <http://www.ilo.org/ipec/areas/Childdomesticlabour/lang--en/index.htm>.

<sup>6</sup> Dr. June Kane, *Helping Hands or Shackled Lives? Understanding child domestic labour and*

## **B. Manifestations of domestic servitude and domestic slavery**

23. Owing to the indicated vulnerabilities, domestic workers are often subject to unfair and exploitative labour practices. Some are paid way below minimum wage standards or not at all, while others are confronted with the arbitrary deduction or withholding of wages. Many domestic workers are expected to live with their employers, yet are only offered sub-standard or degrading living conditions. Live-in workers might be expected to work 16–18 hours a day, be always on call and forego regular rest days and vacations. They frequently face restrictions on their freedom of communication and movement. Physical, emotional and sexual abuse is also common.

24. The line between domestic work, albeit accompanied by serious violations of fair labour standards, and domestic servitude and slavery is difficult to draw. In practice, there is a wide spectrum ranging from domestic workers engaged in labour relationships that follow applicable labour and human rights standards to victims of domestic servitude and slavery. Owing to the criminal and hence clandestine nature of servitude and slavery, it is impossible to determine what percentage of domestic workers are actually victims thereof.

25. Slavery and servitude have in common that the victim is economically exploited, totally dependent on other individuals and cannot end the relationship at his or her own volition. In cases of slavery, as classically defined by the Slavery, Servitude, Forced Labour and Similar Institutions and Practices Convention of 1926, the perpetrator puts forward a claim to “own” the victim that is sustained by custom, social practice or domestic law, even though it violates international law. In servitude and slavery like practices, no such claim to formal ownership exists.<sup>7</sup> This does not mean that servitude is the lesser human rights violation: the humiliation, exploitation and suffering can be equally or more intense depending on the nature of the individual case.

26. Domestic servitude and domestic slavery can be distinguished by the fact that the exploitation takes place primarily in or around the household of the perpetrators. In many cases, these phenomena go hand in hand with other forms of servitude and slavery. Beyond having to do household chores, for instance, a victim might be forced to work in agriculture, in the market or engage in prostitution.

27. The Special Rapporteur has discerned a number of instances, where people engaged in domestic work are victims of servitude or slavery as defined by the 1926 Slavery Convention, the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1956 (the 1956 Supplementary Convention on Slavery) and jurisprudence relating to article 8 of the International Covenant on Civil and Political Rights.

### **1. Domestic slavery**

28. Domestic slavery, alongside other forms of slavery, still exists in parts of the world, notably in certain countries of the Sahel region of Western Africa. The 1926 Slavery Convention (art. 1) defines slavery as “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised”. Slavery still exists in certain sectors of society in Mauritania, even though the Government has outlawed and criminalized the practice (see A/HRC/15/20/Add.2). Women and children in particular end up in domestic slavery. They must work from before sunrise to after sunset, caring for the

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*responses to it* (Geneva, ILO, 2004), p. III.

<sup>7</sup> See also European Court of Human Rights, *Siliadin v. France*, application no. 73316/01, 26 July 2005, paras. 122 ff.

master's children, fetching water, gathering firewood, pounding millet, moving heavy tents and performing other domestic tasks. Besides exploitative living and working conditions and frequent physical and sexual abuse, the specific nature of slavery manifests itself by the fact that the victim and her children are considered to be their master's property and can be rented out, loaned or given as gifts to others.

29. The Special Rapporteur also notes a 2008 judgment of the Economic Community of West African States Court of Justice ordering the Government of Niger to pay compensation to a former domestic "slave" sold to her "master" at the age of 12 and made to work for almost ten years.<sup>8</sup> Although slavery in Niger is criminalized, national courts did not recognize the plaintiff's right to be free from her "master" and marry another man.

## 2. Domestic servitude resulting from debt bondage

30. Among the instances leading to domestic servitude is debt bondage, also referred to as bonded labour (see for information A/HRC/12/21). Article 1 (a) of the 1956 Supplementary Convention on Slavery defines debt bondage as "the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined".

31. Bonded labour, which has been historically associated with agricultural production and the landless poor (see A/HRC/12/21), can touch entire families. In addition to the agricultural work performed by men, bondage arrangements sometimes extend to women who are forced to serve in the household of the creditor. In some cases, parents are forced to give away one or more of their children to the creditor who often subjects them to domestic servitude.<sup>9</sup>

32. The mechanization of agriculture, rural-urban migration and the development of labour-intensive export industries, coupled with the erosion of workers' rights outside the traditional bonded labour context, have led to the emergence of patterns of "neo-bondage", whereby destitute people commit themselves to working off loans or wage advances obtained from their employer and cannot default on this debt, not least due to a fear of extrajudicial enforcement. In this context, researchers note an increasing feminization of bonded labour and some of the victims end up in bonded domestic servitude.<sup>10</sup>

33. "Neo-bondage" may also emerge in the context of migration for domestic work. Migrant domestic workers will often assume a considerable debt towards the employer or the agency organizing her recruitment and transport to cover the cost of the air ticket and recruitment fees. The domestic worker is then expected to work off this debt. In many countries, migrant domestic workers are not able to change employers as the validity of their visa depends on the initial employer's sponsorship (see section 2f). In addition, they might be blocked from returning to their home country, because employers or recruitment agencies withhold passports or return air tickets. They cannot leave their position before they have worked off their recruitment debt. With salaries being often as low as US\$ 100–300 per month, this means that migrant domestic workers become bonded for long periods to a single employer, making them easily exploitable.

<sup>8</sup> Economic Community of West African States, Community Court of Justice, *Hadijatou Mani Koraou v. The Republic of Niger*, application No. ECW/CCJ/APP/08/08; Judgment No. ECW/CCJ/JUD/06/08 of 27 October 2008.

<sup>9</sup> See Anti-Slavery International, "Forced and Bonded Labour in Nepal: Briefing Note" (July 2009).

<sup>10</sup> See e.g. Krishna Prasad Upadhyaya, "Poverty, Discrimination and Slavery: The reality of bonded labour in India, Nepal and Pakistan" (Anti-Slavery International, 2008).

34. Domestic bonded labour can be linked to gender-discriminatory cultural practices. Among certain ethnic groups in Ghana and neighbouring countries, for instance, girls as young as 6–10 years old are forced into bonded labour, serving as so-called *trokosi* or *vudusi* in the household of priests at local fetish shrines. They are given by their parents to the shrine to pay the shrine for erasing a moral failing or curse attached to the parents. In addition to performing domestic chores and ritual duties at the shrine, a *trokosi* is usually also expected to work long hours on farmland belonging to the shrine. From puberty, she is expected to endure sexual relations with the fetish priest. Although the Government of Ghana has criminalized the practice, it has not yet been eradicated.<sup>11</sup>

### 3. Exploitation of children in domestic work

35. The exploitation of children in domestic work can amount to domestic servitude. The 1956 Supplementary Convention on Slavery specifically outlaws “any institution or practice whereby a child or young person under the age of 18 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” (art. 1 (d)).

36. Domestic work is particularly hazardous for children, as the nature of the work typically requires long work hours, including night-time work. Children in domestic service are often expected to carry heavy loads or handle dangerous and toxic substances such as insecticides or bleach. Owing to their physical and social isolation, children engaged in live-in domestic work are at a particularly great risk of physical or sexual abuse or humiliating and degrading treatment. In most contexts, domestic work outside the family, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children, and falls within the ambit of the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (ILO Convention No. 182).<sup>12</sup> No child, regardless of the child’s age or “consent”, must be engaged in one of the worst forms of child labour.

37. Children in domestic work will very often drop out of school because of their circumstances or the demands of their employer. This adds to their vulnerability to exploitation.

38. In many cases, poverty will make parents involuntary accomplices to the exploitation of their own children. In Haiti (see A/HRC/12/21/Add.1), parents from poor families will often send one or more of their children to stay with more affluent families, who may be relatives, family friends or complete strangers. In its idealized form, the practice should ensure that the host family takes care of the child and pays for its schooling, while expecting the child in return to take up a modest set of household chores. In reality, the majority of the estimated 150,000–500,000 so-called *restavèk* children in Haiti are exploited in domestic servitude. They frequently work extremely long hours without pay, are deprived of schooling, health care and adequate food or shelter and often suffer physical and sexual abuse. The practice is so associated with abuse that the word *restavèk* (which literally means “to stay with” in Haitian Creole) has become a pejorative term.

39. The *restavèk* system appears to have cultural links to West and Central Africa. In several countries of that region, local culture requires families to send some of their children to live with paternal or maternal relatives. The practice was traditionally meant to

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<sup>11</sup> Special Rapporteur on violence against women, its causes and consequences, mission to Ghana, A/HRC/7/6/Add.3, paras. 42–50.

<sup>12</sup> See also Committee on the Rights of the Child, concluding observations on Malaysia, CRC/C/MYS/CO/1 (2007), para. 91.



foster family solidarity and kinship ties. However, owing to the erosion of such ties, such children often end up being subjected to domestic servitude at the hands of their own relatives.<sup>13</sup>

40. Increasingly, parents are implicated in the exploitation of children in the general market for domestic labour. Some parents do so with the belief that their children will be provided with formal education and work. Deceiving the parents, the intermediaries often end up trafficking the children into domestic servitude or other forms of exploitation. In Ecuador (see A/HRC/15/20/Add.3), children are “rented” by their parents or others to third parties who can employ them at their will. Many of the victims are exploited in domestic servitude. Reports of the Council of Europe express concern about the international trafficking of children aged from 8 to 15 years from West Africa to Europe, where they are exploited in domestic labour, usually in the households of compatriots.<sup>14</sup> Underlying such practices is a failure to recognize children as full human beings with equal rights. Instead, children are treated as commodities who can be moved around and exploited for the benefit of adults.

41. Children on their own often accept domestic work for lack of other options, in particular as live-in arrangements entail a new home and often a (false) promise of education. Street children, including those who were abandoned or fled parental abuse, often seek domestic work to find shelter. Children who are orphaned as a result of AIDS also often end up in domestic servitude.<sup>15</sup> Girls also increasingly migrate independently from impoverished rural areas in search of domestic work.<sup>16</sup>

42. Children find it especially difficult to extract themselves from situations of domestic servitude. The relationship between the employer and child usually starts out seemingly well before exploitation and abuse become obvious. Consequently, the children feel that they are in the wrong and stay for fear of ‘failing’ their families. Children who have been sexually abused find it difficult to leave because of the shame of ‘being spoiled’ and when they do leave, are afraid to go back to their families and end up in the streets. Child domestic workers who migrated or were trafficked long distances often face financial, language and cultural barriers preventing their return home.

#### 4. Domestic servitude in forced and child marriages

43. Forced marriage combines sexual exploitation with domestic servitude.<sup>17</sup> The victims are forced to perform household chores in line with gendered stereotypes, while submitting to their husbands’ sexual demands. The link between forced marriages and servitude is explicitly recognized by article 1 (c) of the 1956 Supplementary Convention on Slavery, which considers women to be persons of servile status if they have been subjected to:

“Any institution or practice whereby:

- (i) A woman, without the right to refuse, is promised or given in marriage on payment of a consideration in money or in kind to her parents, guardian, family or any other person or group; or

<sup>13</sup> A/HRC/7/6/Add.3, paras. 56–57.

<sup>14</sup> Parliamentary Assembly of the Council of Europe: Committee on Equal Opportunities for Women and Men, “Domestic slavery: servitude, au pairs and mail-order brides”, Assembly document No. 9102 (2001), para. 21.

<sup>15</sup> Secretary-General, *World Report on Violence against Children* (United Nations, 2006), p. 240.

<sup>16</sup> A/HRC/7/6/Add.3, paras. 54–55.

<sup>17</sup> Special Rapporteur on trafficking in persons, especially women and children, A/HRC/4/23, para. 43.

- (ii) The husband of a woman, his family, or his clan, has the right to transfer her to another person for value received or otherwise; or
- (iii) A woman on the death of her husband is liable to be inherited by another person”.

44. There are no reliable statistics on numbers of victims, not least because it is very difficult to distinguish forced marriages, contracted on the basis of force, threat of harm or deception, from arranged marriages that may involve considerable social pressure to consent. The problem is not restricted to specific countries and cases often have a transnational dimension. The United Kingdom Forced Marriage Unit, for example, handles about 250–300 cases a year of nationals facing forced marriages.<sup>18</sup>

45. Child marriages, unions that involve at least one partner below the minimum legal age of marriage, constitute a form of forced marriage since the child is not in a position to consent. Article 16 of the Convention on the Elimination of All Forms of Discrimination against Women specifies that “the betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage.” The Committee on the Elimination of Discrimination against Women considers that the minimum age for marriage should be 18 years for both man and woman.<sup>19</sup> This age limit, which is in line with the definition of the child provided by the Convention on the Rights of the Child, is also reflected in the African Charter on the Rights and Welfare of the Child (art. 21).

46. A comprehensive United Nations Children’s Fund (UNICEF) study has found that women and girls who were married below 18 years of age are less educated and more likely to experience domestic violence.<sup>20</sup> The domestic servitude inherent to child marriages disempowers girls by denying them educational opportunities and the option to form protective networks of friends and peers.

## 5. Servitude resulting from the economic exploitation of severe dependency

47. Servitude and other slavery-like practices prohibited by article 8 of the Covenant on Civil and Political Rights extend beyond the specific instances recognized by the 1956 Supplementary Convention on Slavery and includes other cases of economic exploitation in which the victim is so dependent on the perpetrator that s/he cannot leave the situation of exploitation.<sup>21</sup> Dependency in this context can derive from a multiplicity of physical, economic, social, cultural, psychological and legal factors. While each factor may by itself not be strong enough to create the severe dependency characterizing servitude, the factors may reinforce each other creating a net of dependency factors from which the victim cannot extract herself.

48. Relevant economic factors include advance or deferred payment designed to increase dependency, payment that keeps workers below the poverty level, payment in kind only or prohibitions to freely change employers.

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<sup>18</sup> Ibid., para. 30.

<sup>19</sup> Committee on the Elimination of Discrimination against Women, general recommendation 21 on equality in marriage and family relations (1994), para. 36.

<sup>20</sup> See UNICEF, *Early Marriage: A Harmful Traditional Practice* (New York, 2005).

<sup>21</sup> See Manfred Nowak, *U.N. Covenant on Civil and Political Rights: CCPR Commentary*, second edition (N.P. Engel Publications, 2005), art. 8 of the Covenant on Civil and Political Rights, para. 12. Nowak highlights that the *travaux préparatoires* of the Covenant indicate that the term “servitude” was to be applicable to all conceivable forms of dominance and degradation.

49. Restrictions of domestic workers' human rights to freedom of movement and residence can also be indicators for dependency. In some cases, domestic workers are forced to live with their employers and locked into the house virtually 24 hours a day. This is not only a violation, but also means that they are isolated, unable to report exploitation to the authorities and incapable of obtaining support from peers, friends or labour union representatives.

50. Economic and social human rights abuses, for instance, the threat of withholding food, water or essential medical care where the worker depends on the employer for these goods, can also place the victim in a position where she has no choice but to submit to exploitation.

51. Physical and psychological abuses reinforce dependency and, in extreme cases, become the very cause of domestic servitude (rather than a mere consequence). A domestic worker may, for instance, be subjected to abuse so severe that a psychological dependency on the perpetrator ensues (a phenomenon known as the "battered women syndrome" in the domestic violence context). The victim may be systematically beaten, insulted, humiliated and belittled to force her to submit to excessive working hours, unpaid overtime on rest days, etc.. Such abuse can reinforce other patterns of learned submission based on caste, ethnic or gender discrimination. Sexual violence, ranging from sexual harassment to repeated rape or the threat of trafficking into forced prostitution, is also employed as a tool of subjugation.<sup>22</sup> The Special Rapporteur also received numerous reports of domestic workers being threatened with denunciation for crimes they did not commit if they complained about exploitative working conditions.

52. In a number of countries, the authorities become involuntary accomplices to exploitation and servitude by allowing, or even requiring, employers to restrict the freedom of movement and residence of migrant domestic workers or systematically failing to enforce relevant prohibitions. In Saudi Arabia, for instance, the Special Rapporteur on violence against women, its causes and consequences, noted that, contrary to an official Government decision, migrants systematically had their passports and residency permits taken away from them, causing some to end up in slave-like conditions.<sup>23</sup> Jordanian legislation on domestic workers, despite being very progressive in other respects, still requires migrant domestic workers to live with their employer and seek his permission to leave the home – even during their time off.<sup>24</sup>

## 6. Migrants and domestic servitude

53. Migration provides an avenue for women from developing countries to find employment abroad and sustain their families. However, a sizable minority of women who emigrate in search of domestic work ends up in domestic servitude.

54. Migrant domestic workers commonly have a particularly precarious residence status, making them dependent on their employer and hence easy to exploit. A number of countries in Asia and the Middle East (where the system is known as *kafalah*) still tie a domestic worker's visa to a particular family. The domestic worker is only allowed to change visa sponsors without the employers' consent in exceptional circumstances that are, in practice, hard to invoke. A live-in worker who is dismissed can find herself from one

<sup>22</sup> Human Rights Watch, *Swept under the rug: Abuses against Domestic Workers Around the World* (2006), p. 17.

<sup>23</sup> Special Rapporteur on violence against women, its causes and consequences, mission to Saudi Arabia, A/HRC/11/6/Add.3, para. 57.

<sup>24</sup> Human Rights Watch, *Slow Reform: Protection of Migrant Domestic Workers in Asia and the Middle East* (2010), pp. 3–4.

moment to the next in the street with no income, legal residence status, family support network, return air ticket or right to seek another job.

55. Reporting on domestic slavery, the Council of Europe has highlighted the structurally similar case of women in arranged transnational marriages, also referred to as “mail-order brides”.<sup>25</sup> Faced with an unfamiliar partner and sociocultural context, such women can easily find themselves in situation of abuse, exploitation, and, in extreme cases, domestic and sexual servitude. Their visa status typically depends on the continuation of the arranged marriage for at least a certain number of years. In order to lessen dependencies, some countries have created a special legal residence status for divorced or separated migrant women who can prove that they were severely abused or exploited by their partner.<sup>26</sup>

56. Domestic work also draws in many women and girls with irregular migration status, because it is less visible, usually provides cash payment and, in many cases, a place to stay. Women in such situations usually fear reporting exploitation to the authorities, especially where criminal investigations and the enforcement of labour standards are linked to immigration control. Domestic workers without papers include women who should qualify for asylum or other protected status, but face deportation because States fail to respect their international obligations not to subject to refoulement persons who would face persecution or torture upon their return.<sup>27</sup> Victims of gender-based persecution – e.g. women at risk of “honour” killings – are also prone to becoming undocumented migrants vulnerable to exploitation, because national authorities fail to recognize such persecution or unrealistically assume that the victim has “internal flight alternatives” in her country of origin.

57. A specific protection gap exists with regard to domestic workers employed by diplomats or international civil servants with diplomatic status. A number of cases have been reported, in which diplomats subjected their domestic employees to servitude and related abuse. Migrant domestic workers employed by diplomats are a particular vulnerable group. Firstly, their visa status typically depends on continued employment by the diplomat and they are therefore not free to change employers in case of exploitation. Secondly, diplomatic immunities and privileges shield diplomats from the enforcement of national legislation. Under the Vienna Convention on Diplomatic Relations, diplomats enjoy immunity from criminal action. In addition, many foreign ministries and courts tend to interpret the Vienna Convention as granting diplomats immunity from civil suits brought by their domestic workers, even though article 31 of the Vienna Convention excludes civil immunity for “professional or commercial activity exercised by the diplomatic agent in the receiving State outside his official functions”.

58. The Special Rapporteur is concerned that sending countries have a tendency to hush up credible reports of exploitation committed by their diplomats, rather than to launch criminal investigations. Meanwhile, receiving countries often lack the courage to demand a lifting of diplomatic immunity or declare perpetrating diplomats to be *personae non grata*, while at the same time providing independent residence rights to the victims.

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<sup>25</sup> *Domestic slavery: servitude, au pairs and mail-order brides*, paras- 27–34.

<sup>26</sup> Special Rapporteur on violence against women, its causes and consequences, mission to the Netherlands, A/HRC/4/34/Add.4, paras. 58–59.

<sup>27</sup> See 1951 Convention relating to the Status of Refugees, art. 33, and Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 3. See Committee on the Elimination of Discrimination against Women, concluding observations on China, CEDAW/C/CHN/CO/6, paras. 33–34 (on the vulnerability of women from the Democratic People’s Republic of Korea to exploitation).

## 7. Trafficking and domestic servitude

59. Trafficking is one path into domestic servitude. International law 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.<sup>28</sup> Slavery, practices similar to slavery and servitude are among the worst forms of exploitation that can result from trafficking; the victim's "consent" to such exploitation is immaterial.<sup>29</sup>

60. While links with other forms of organized violent crime cannot be excluded, trafficking into domestic servitude usually takes place under the cover of activities that seem legal or enjoy widespread social acceptance. Agents recruiting domestic workers become perpetrators of trafficking, if they deliberately deceive their clients about the conditions of work or engage in illegal practices of control (such as the withholding of passports), while knowing that such practices will result in the exploitation of their recruits.<sup>30</sup>

61. Parents can also become complicit in the trafficking of their own children if they hand over their child to a third party knowing that the child will be exploited in domestic work. In its latest concluding comments on Pakistan, for instance, the Committee on the Rights of the Child expressed "concern at the growing number of children trafficked internally, sometimes sold by their own parents or forced into marriage, sexual exploitation or domestic servitude" (CRC/C/PAK/CO/3-4, para. 95).

## C. Root causes of domestic servitude

62. Domestic servitude does not emerge in a vacuum but is linked to wider patterns of social and economic exclusion, discrimination and, most importantly, a lack of State protection.

### 1. Feminized poverty and gender discrimination

63. The availability of domestic help has contributed to women's empowerment, because it has allowed many women to reconcile their professional aspirations with their gendered social obligations towards their children and family. It is therefore a bitter irony that the women and girls who made such advances possible are often subjected to a form of exploitation that is gender-based at its heart.

64. Feminized poverty pushes women and girls into domestic work and makes them easy to exploit. Women, who often carry the burden of providing for children, suffer disproportionately from cuts to welfare programmes and essential public services in a situation of economic crisis and budget cuts. In many countries, the collapse of entire agricultural sectors, often linked to inequitable terms of trade, has driven also women and girls into rural-urban or international migrations. With the supply of cheap, desperate

<sup>28</sup> Protocol to Suppress, Punish and Prevent Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, art. 3. See also the Council of Europe Convention on Action against Trafficking in Human Beings, art. 4.

<sup>29</sup> Cf. *ibid.*

<sup>30</sup> See Special Rapporteur on trafficking in persons, especially women and children, mission to Lebanon, E/CN.4/2006/62/Add.3, paras. 28–33.

labour outstripping demand, power relationships are often so grossly unequal that the degree of exploitation endured by domestic workers depends on the employer's will.

65. Gender discrimination marks the trajectory into domestic servitude. Families will often give preference to boys to continue their education, while girls are forced to drop out of school to help earn money for the family. Such patterns are reinforced where States fail to respect their obligation under the Convention on the Rights of the Child (art. 28) to provide free and compulsory primary education to girls and boys, while making secondary and higher education available and accessible. In some cultural contexts, there is a widespread belief that domestic work provides better training for becoming a wife and mother than formal education.

66. On the job, domestic workers are also confronted with gender-based discrimination. Stereotypical gender roles that assign domestic chores to the women of the family – who are expected to take care of them without reward, recognition or remuneration – are transposed to the professional context. This helps explain why domestic workers are often expected to be always available – notwithstanding labour standards on maximum working hours, rest days and vacation. Because domestic work was traditionally performed by female family members for free, many employers feel reticent to pay a serious salary for work they think should really cost no more than room, board and a measure of gratitude.

67. In many cultural contexts, women remain dependent on the social protection of their family. This poses an obvious problem for live-in domestic workers who do not have family close to them. Leaving the house is not an option as women living on their own are looked down upon and viewed with suspicion.

68. Stereotypes of the female domestic worker as the readily available target of sexual conquest, contribute to sexual abuse and exploitation. Control of the domestic worker's sexuality also extends to a denial of reproductive rights: domestic workers are very often unfairly dismissed if the employer suspects them of being pregnant. Legislation in many States tacitly endorses such violations by specifically excluding domestic workers from maternity leave and other protection awarded to pregnant women.

## **2. Discrimination based on ethnicity, race, skin tone or caste**

69. Domestic servitude is intrinsically linked to discrimination based on ethnicity, race, skin tone or caste. Imagined distinctions in human worth and dignity, derived from meaningless differences in outward appearance or lineage, set the ground for ruthless exploitation. Patterns of discrimination are internalized by both perpetrators and victims, who more or less consciously envisage themselves as “masters” or “servants”.

70. While this is most obvious with regard to the enduring patterns of domestic slavery, most domestic workers will be confronted one way or another with discrimination. During the course of her missions to Ecuador (A/HRC/15/20/Add.3) and Brazil (A/HRC/15/20/Add.4), the Special Rapporteur noted that girls of Afro-descent were far more likely to end up in domestic servitude than more light-skinned Brazilians. A study found that 69 per cent of children in domestic work in Brazil classified themselves as “black”, compared to 31 per cent who considered themselves “white”.<sup>31</sup>

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<sup>31</sup> *Helping Hands or Shackled Lives? Understanding child domestic labour and responses to it*, p. 25.

71. Prejudices also reveal themselves in pay differences. Studies in Middle Eastern countries found, for instance, that Filipina migrant domestic workers are usually paid more than their more dark-skinned colleagues from South Asia or Africa.<sup>32</sup>

72. Caste-based discrimination, found in various cultural contexts, and domestic servitude are linked. In South Asia, so-called “untouchables” (*dalits*) and certain indigenous communities make up the vast majority of people in domestic bonded labour, which is a form of domestic servitude. Moreover, specific types of degrading domestic chores are specifically associated with lower castes and linked to exploitative conditions. In certain States in India, despite a long-standing Government campaign to eradicate the practice, many *dalit* women reportedly still have to engage in “manual scavenging”: because of their caste they are expected to take care of scraping human excrement from dry toilets in private households or public places.<sup>33</sup>

### 3. Lack of State protection

73. The vast majority of victims of domestic servitude would not be in this position, if States provided them with adequate protection in line with their obligations under international law.

74. States have to criminalize all forms of slavery and servitude, investigate and prosecute the perpetrators with due diligence and assign penalties that fit the severity of the crime. Nevertheless, many countries still lack specific criminal provisions on slavery and servitude and therefore have to rely on prosecuting some of the individual acts involved, which often does not capture the severity of the crime. The European Court of Human Rights was confronted with this problem in the landmark case of *Siliadin v. France*, concerning a Togolese girl who was subjected to domestic servitude. Given that France, at the time, did not have specific criminal provisions on slavery and servitude that would have afforded the victim specific and effective protection, the Court found a violation of the right not to be subjected to servitude.<sup>34</sup> Furthermore, States often fail to prosecute crimes accompanying domestic servitude, such as forced confinement or assault.

75. Many States do not afford domestic workers the equal protection of labour law, which invites exploitation, leading, in extreme cases, to domestic servitude. In a number of States, domestic work is excluded from the scope of application of relevant labour laws. At best, parallel regimes are set up that provide lesser standards of protection. It is very common to exclude domestic workers from essential social benefits such as health care, compensation in case of invalidity, pensions or maternity leave and labour rights such as paid vacations, rest days or maximum work hours.

76. A recent study of the laws of ten Asian countries with large numbers of domestic workers found that only three countries included domestic workers in their labour legislation and only one provided full labour protection to domestic workers, including migrant domestic workers.<sup>35</sup> Middle Eastern States with the same legislative shortcoming have long been contemplating to extend their existing labour laws to domestic workers or adopt specific legislation for them. In recent years, however, only Jordan has successfully reformed its labour law to include domestic workers. In some European countries, the

<sup>32</sup> See e.g. ILO, *Gender and migration in Arab States: The case of domestic workers* (Beirut, Regional Office for Arab States, 2004), p. 18.

<sup>33</sup> WaterAid India, “Burden of Inheritance: Can we stop Manual Scavenging?” (New Delhi, 2009).

<sup>34</sup> *Siliadin v. France*, paras. 141 ff.

<sup>35</sup> Asia Pacific Forum on Women, Law and Development, “Advance Domestic Workers Rights: Recognise Their Right to Collective Representation” (2010).

domestic work aspect of au pair arrangements is not recognized, leading to regulatory protection gaps.

77. There are positive examples of States adopting specific norms to protect domestic workers and thereby discouraging domestic servitude. South Africa, for instance, has introduced a minimum wage for domestic workers. Labour legislation in Hong Kong, Special Administrative Region of China, foresees a minimum wage, overtime pay, a weekly day of rest, maternity leave and paid annual leave for domestic workers. Austrian law requires that live-in domestic workers have at least a 10-hour period of daily rest, including during the night hours of 9 p.m. to 6 a.m.

78. Some countries have introduced standard contracts for migrant domestic workers that provide certain minimum standards of employment. In 2007, for example, the United Arab Emirates introduced a standard contract for domestic workers that details entitlements relating to wages, rest breaks, payment of salaries and medical treatment. Lebanon followed suit in 2009. Standard contracts constitute a significant advance, although many still fall short of guaranteeing minimum international standards, including non-discrimination between different types of workers. The introduction of standard contracts can supplement, but not substitute labour legislation. Effective labour laws protect domestic workers by setting out penalties, monitoring systems, accessible complaint mechanisms and effective remedies that go beyond the inherent limits of contract law.

79. Even where there are laws and contracts that are meant to protect domestic workers, they are often inadequately enforced. Sometimes employers do not even have to register live-in domestic workers. There are no meaningful complaints mechanisms or the authorities fail to adequately follow up complaints. In many countries, the authorities also lack the legal power or human resources to follow up violations taking place in private homes. A positive exception is Uruguay, where the Labour and Social Security Inspectorate can obtain judicial authorization to conduct home inspections in cases of presumed labour law violations; the inspectorate has created a special section to monitor domestic work.<sup>36</sup> Other countries require that employers ensure that live-in domestic workers attend periodic, private interviews with labour inspectors. This breaks their isolation and allows them to report abuse and exploitation.

80. The implementation and enforcement of applicable laws and contracts is often undermined because domestic workers are not adequately informed of their rights and obligations. By the same token, many employers are not sensitized thereon and it is left to their individual moral judgement to determine what constitutes fair treatment. Unions may find it difficult to organize domestic workers since they are dispersed and often hard to access if they live with their employers. In some cases, domestic workers are even prohibited from forming or joining trade unions, which constitutes a violation of the right to freedom of association and the prohibition of discrimination. These obstacles notwithstanding, non-governmental organizations and domestic worker self-help groups have taken up tasks that are the responsibility of the Government: setting up points of information in places where domestic workers are accessible (e.g. shopping malls or water-drawing points) or providing shelter for workers fleeing abuse or exploitation.

81. The migrant domestic sector is particularly underregulated. Many countries have left the organization of this sector entirely to transnational recruitment agencies who are often more concerned with satisfying employers' needs than protecting the human rights of the human beings they recruit. In some cases, the authorities have not even put in place

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<sup>36</sup> Human Rights Watch, "Decent Work for Domestic Workers: The Case for Global Labor Standards" (2010), p. 19.



basic measures, such as a registration system that records which recruitment agency is bringing in which domestic worker and who that person ends up working for.<sup>37</sup> Problems are often handled by immigration authorities, which lack the technical expertise to appropriately address them.

82. In recent years, sending and receiving countries have intensified their cooperation in concluding bilateral agreements or memoranda of understanding to regulate migrant domestic work and protect migrant. A bilateral agreement between Argentina and Peru, for instance, guarantees that migrant domestic workers receive the same treatment as nationals under labour law with respect to wages, working conditions and social security.<sup>38</sup> Other agreements, however, are less progressive and fail to enshrine fundamental protections like guaranteed rest days or prohibition of arbitrary wage deductions. Moreover, there are often problems in the implementation of the undertakings made under these bilateral agreements.

## **D. The international framework: Once again overlooking the “private” sphere?**

83. International human rights law unequivocally outlaws all forms domestic servitude and domestic slavery. However, available international instruments do not address the specificities of domestic servitude, which undermines the implementation of this comprehensive prohibition. After decades of stagnation, progress in international labour law is finally in sight to ensure decent standards for domestic work and thereby prevent domestic servitude.

### **1. International labour law**

84. International labour law implicitly outlaws domestic servitude by banning forced and compulsory labour and child labour. Relevant International Labour Organization instruments include the Abolition of Forced Labour Convention (No. 105), the Convention on the Elimination of the Worst Forms of Child Labour (No. 182) and the 1998 Declaration on Fundamental Principles and Rights at Work.

85. As early as 1965, the ILO passed a resolution calling for normative action to improve the condition of domestic workers.<sup>39</sup> However, this call has yet to be heeded by the international community of States. None of the 188 ILO conventions to date specifically addresses domestic workers. Instead, many key conventions contain “flexibility clauses” that have been used by certain States to specifically exclude domestic workers from the protective ambit of the conventions. Among more recent treaties, the Maternity Protection Convention (No. 183) and the Night Work Convention (No. 171) allow States to exclude “limited categories of workers when the application of the Convention to them would raise special problems of a substantial nature” (common art. 2).<sup>40</sup>

86. Responding to a international campaign led by domestic workers associations, the ILO Governing Body decided to place an item on decent work for domestic workers on the agenda of the ninety-ninth session of the International Labour Conference (June 2010). In a landmark decision, the Conference decided to adopt standards concerning decent work for

<sup>37</sup> See e.g. Special Rapporteur on the human rights of migrants, mission to Mexico, A/HRC/11/7/Add.2, para. 91; A/HRC/11/6/Add.3, para. 63.

<sup>38</sup> “Decent Work for Domestic Workers: The Case for Global Labor Standards”, p. 19.

<sup>39</sup> ILO, *Official Bulletin* (Geneva), July 1965, Supplement I, pp. 20–21.

<sup>40</sup> See Maternity Protection Convention (No. 183), art. 2, para. 2, and Night Work Convention (No. 171), art. 2, para. 2.

domestic workers, which are to take the form of a binding convention supplemented by a recommendation.

## 2. International human rights law

87. International human rights law outlaws domestic and other forms of servitude. Apart from the Universal Declaration of Human Rights and the 1956 Supplementary Convention on Slavery, relevant norms can be found in the Covenant on Civil and Political Rights (art. 8), the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (art. 11), the Convention on the Rights of Persons with Disabilities (art. 27), the International Covenant on Economic, Social and Cultural Rights (art. 7 on just and favourable conditions of work) and the Convention on the Rights of the Child (arts. 19 and 32), and the Convention on the Elimination of All Forms of Discrimination against Women (art. 11 on women's right not to be discriminated in the field of employment).

88. Building on these norms, the committees of independent experts overseeing State parties' compliance with the obligations assumed under these treaties (treaty bodies) have made repeated references to the exploitation of domestic workers in their concluding observations on country reports.<sup>41</sup> Conversely, individual complaints mechanisms, including the Special Rapporteur's communications procedure,<sup>42</sup> remain under-utilized. In its general comment No. 28 on gender equality, the Human Rights Committee has made specific references to slavery disguised, *inter alia*, as domestic or other kinds of personal service.<sup>43</sup> When the present document was being finalized, the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families was discussing a general comment on migrant domestic workers, with a view to adopting it at the end of 2010.

89. Independent experts mandated by the Commission on Human Rights and the Human Rights Council have also addressed the issue. The Working Group on Contemporary Forms of Slavery had drawn the attention of the Commission on Human Rights to the problem of domestic servitude.<sup>44</sup> Special procedures mandates, in particular the Special Rapporteur on violence against women, its causes and consequences, and the Special Rapporteur on trafficking in persons, especially women and children, have focused their fact-finding on the situation of domestic workers and thereby advanced the debate.<sup>45</sup>

90. At the regional level, the Council of Europe has shown leadership in taking up the issue. In its recommendation 1663 (2004) on domestic slavery, servitude, au pairs and

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<sup>41</sup> See e.g. Human Rights Committee, concluding observations on Chad, CCPR/C/TCD/CO/1, para. 31; Committee on Economic, Social and Cultural Rights, concluding observations on Canada, E/C.12/CAN/CO/4-E/C.12/CAN/CO/5, para. 49; Committee on the Rights of the Child, concluding observations on Bangladesh, CRC/C/BGD/CO/4, para. 82; Committee on the Elimination of Racial Discrimination, concluding observations on the United Arab Emirates, CERD/C/ARE/CO/17, para. 16; Committee on the Elimination of Discrimination against Women, concluding observations on Malaysia, CEDAW/C/MYS/CO/2, paras. 25–26; Committee against Torture, concluding observations on Bahrain, CAT/C/CR/34/BHR, para. 7.

<sup>42</sup> See [http://www2.ohchr.org/english/issues/slavery/rapporteur/submitting\\_info.htm](http://www2.ohchr.org/english/issues/slavery/rapporteur/submitting_info.htm).

<sup>43</sup> Human Rights Committee, general comment No. 28 on article 3 (Equality of rights between men and women), CCPR/C/21/Rev.1/Add.10, para. 12.

<sup>44</sup> See e.g. E/CN.4/Sub.2/2004/36, para. 51.

<sup>45</sup> Special Rapporteur on violence against women, its causes and consequences, mission to the Netherlands (A/HRC/4/34/Add.4); mission to Ghana (A/HRC/7/6/Add.3); Special Rapporteur on trafficking in persons, especially women and children, mission to Bahrain, Oman and Qatar (A/HRC/4/23/Add.2); mission to Lebanon (E/CN.4/2006/62/Add.3).

“mail-order brides”, the Parliamentary Assembly of the Council of Europe expressed dismay that slavery still exists in Europe, while highlighting that “today’s slaves are predominantly female and usually work in private households”.<sup>46</sup> Human rights bodies of the African Union and the Organization of American States have addressed concerns relating to domestic workers.<sup>47</sup> From 17 to 18 June 2010, the Special Rapporteur participated in a major conference on trafficking for the purpose of domestic servitude organized by the Organization for Security and Co-operation in Europe.

91. The work at the expert and regional levels has only led to limited recognition of the problems by intergovernmental United Nations bodies with a human rights or human rights-related mandate. The Commission on the Status of Women has called on member States to develop measures to prevent the labour and economic exploitation and sexual abuse of girls employed as domestic workers and ensure that they have access to education and vocational training, health services, food, shelter and recreation.<sup>48</sup> The Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance urges States to pay special attention to protecting people engaged in domestic work (contained in A/CONF.189/12, para. 67). As part of the universal periodic review, a number of States have made recommendations to their peers to improve the protection of domestic workers.<sup>49</sup> Such references to a serious, widespread and global human rights concern are far and between. There is nothing similar to the General Assembly’s Declaration on the Elimination of Violence Against Women (resolution 48/104), which opened another socially constructed “private sphere” filled with human rights violations to the persistent scrutiny of the international community.

#### IV. Conclusions and recommendations

92. **Although the victims are largely invisible, domestic servitude constitutes a global human rights concern. Every region in the world is affected. Domestic servitude takes many shape and forms, ranging from slavery as understood by the 1926 Slavery Convention to slavery-like practices, such as bonded domestic labour and child domestic labour. Millions of women and girls, pursuing the opportunities that domestic work provides, while providing a valuable contribution to society, are at risk because their rights, equal human dignity and autonomy are not adequately protected.**

93. **The criminalization of all forms of slavery and servitude, in line with States’ international obligations, is one aspect of an effective response. At the same time, the issue is embedded in the wider challenge to ensure that domestic workers are finally provided with equal protection of their labour rights. Combating domestic servitude and protecting domestic workers’ rights are two sides of the same coin. The Special Rapporteur recommends that States:**

- **Adopt specific provisions to criminalize servitude in all its forms and manifestations, including bonded labour, child and forced marriages and other**

<sup>46</sup> Parliamentary Assembly of the Council of Europe, Recommendation 1663, adopted on 22 June 2004.

<sup>47</sup> See e.g. concluding recommendations by the African Committee of Experts on the Rights and Welfare of the Child on Nigeria (2009); Inter-American Commission on Human Rights, report on the situation of human rights in Guatemala, OEA/Ser.L/V/II.111, doc. No. 21 rev. (2001), para. 32.

<sup>48</sup> Commission on the Status of Women, agreed conclusions on the elimination of all forms of discrimination and violence against the girl child, E/2007/27-E/CN.6/2007/9, at para. 14.6 (b).

<sup>49</sup> See e.g. reports of the Working Group on Universal Periodic Review on Malaysia (A/HRC/11/30); Saudi Arabia (A/HRC/11/23); United Arab Emirates (A/HRC/10/75); and Bahrain (A/HRC/8/19).

so-called “cultural” practices; prosecute and punish perpetrators with due diligence and ensure that victims can obtain reparation for material and immaterial loss from perpetrators;

- Put in place effective and accessible information and complaints mechanisms for victims of domestic servitude, domestic workers and other community members (e.g. telephone hotlines with operators speaking relevant languages). Instruct immigration and other relevant authorities to refer cases of suspected domestic servitude to the police and the labour authorities. Provide all victims of domestic servitude with adequate and unconditional assistance to protect, rehabilitate and reintegrate them, including by funding relevant non-governmental organizations.
- Strictly prohibit and take action against anyone who unduly restricts the freedom of movement and communication of domestic workers, including by prohibiting them to leave the house outside work hours or by withholding passports, other identification documents or air tickets.
- Curtail practices that reinforce dependency, including by prohibiting employment agencies from charging fees to domestic workers (rather than employers), prohibiting payment in kind and prohibiting advance or deferred payment schemes designed to create dependence.
- Extend the equal protection of their labour laws to domestic workers, including migrant domestic workers, and end any discriminatory denial of entitlements regarding working hours, rest days, vacation, health care, maternity leave and protection from unfair dismissal.
- Require that domestic workers receive a written contract in a language they can understand and that wage payments are made into a bank account. States should set a minimum wage for all domestic workers, including migrants, that should be above the poverty line of the country concerned and under no circumstances lower than the World Bank reference line indicating poverty (currently set at US\$ 2 per day). Any additional payments in kind should not be counted towards the minimum wage.

94. Children are particularly vulnerable to domestic servitude, especially if they live with their employers and/or migrate on their own to find domestic work.

- States should prohibit live-in domestic work for migrant or local children younger than 18 years, since it is typically inherently hazardous. Other domestic work of children who are younger than 15 or still completing their mandatory education should be prohibited to the extent that it interferes with their schooling.
- States should help marginalized families whose children are at risk of domestic servitude (e.g. through conditional cash transfer programmes), while reinforcing efforts to provide viable alternatives for children on their own, including street children, abandoned children and orphans. States should expand efforts to work with teachers, religious leaders and community organizations to end child domestic labour.

95. In the case of live-in domestic workers, the identity of work place and home is deeply problematic as it makes this group dangerously isolated. In order to limit and regulate live-in domestic work, States should:

- Require employers to undergo a mandatory awareness raising training before employing live-in workers. Employers should be obliged to register live-in

workers and ensure that they present themselves to periodic private interviews with labour inspectors.

- Provide the labour authorities with the necessary legal powers, expertise and resources to carry out on-site inspections, based on a judicial order, in cases of credible allegations of serious violations of labour standards. The police should prioritize investigations of reported crimes affecting live-in domestic workers.
- In addition, States should establish blacklists prohibiting households, in which one member has been found to have abused or exploited a live-in domestic worker, from employing other workers.

96. Migrant domestic workers are vulnerable to subjugation to servitude, since they often have a precarious migration status and face prejudices. The Special Rapporteur recommends that States:

- Abolish immigration regimes that tie a visa to the sponsorship of a single employer, including for domestic workers employed by diplomats;
- Recognize migrant domestic workers' right to freely choose where they reside and abolish any live-in requirements stipulated by law or regulations;
- Consider creating a special immigration status providing a right to stay for migrant domestic workers, who substantiate allegations of serious abuse or exploitation by employers.
- Foster their multilateral and bilateral cooperation to accredit and regulate recruitment and placement agencies. Bilateral agreements on migrant domestic work should be binding, based on international standards; guarantee non-discrimination compared to local workers and provide for effective mechanisms to ensure compliance.
- Ensure Immigration and labour authorities cooperate to register all migrant workers and inform them about their rights in a language they can understand.
- Diligently investigate credible allegations of abuse or exploitation committed by their diplomats and prosecute perpetrators. If no criminal action is taken by the sending State, host States should demand that diplomatic immunity is lifted or, failing that, declare the alleged perpetrator in serious cases *persona non grata*, while granting independent resident rights to the victim.

97. Domestic workers have made impressive gains in organizing themselves across the globe. More efforts are needed, however, to empower individual workers. The Special Rapporteur recommends:

- Working with existing domestic workers associations and cooperatives, labour unions should make greater efforts to include domestic workers, including migrant domestic workers.
- States should abolish all legal or factual obstacles preventing domestic workers from exercising their human right to freely associate, including in trade unions.
- National authorities, cooperating with domestic workers associations, unions and national human rights institutions, should launch campaigns to inform prospective and current domestic workers what rights they have and how they can enforce them. Information has to be provided in places and languages accessible to all domestic workers, including migrants.

98. Normative action at the international level reflects has long been a reflection of the indolence of many States to provide effective protection against domestic

servitude at the national level. The Special Rapporteur therefore welcomes the fact that the ILO finally resolved to adopt a convention on decent standards for domestic work and hopes that recommendations contained in this report will be reflected in the Convention. The Special Rapporteur recommends that:

- States cooperate within the ILO to ensure that the future convention on decent standards domestic work is based on the major human rights treaties and entails specific commitments to regulate all aspects of recruitment, placement and work, including with regard to migrant domestic work.
- The Human Rights Council and other appropriate inter-governmental forums should address domestic servitude through appropriate mechanisms. Universal periodic review recommendations should address domestic servitude and related shortcomings in the protection of domestic workers.
- States should consider ratifying ILO Convention on the Worst Forms of Child Labour (No. 182) and the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and withdraw reservations excluding domestic workers from the scope of application of conventions to which they are a state party.
- Treaty bodies should attribute particular attention to all forms of domestic servitude when considering state party reports.

99. Domestic servitude is rooted in entrenched patterns of gender discrimination and discrimination on the basis of race, ethnicity and caste. At the heart of the problem is the fact that work in or for the household, whether paid or unpaid, is undervalued.

- States should reinforce their efforts to implement the commitments agreed at the Fourth World Conference on Women in Beijing and the Durban Review Conference.
  - Senior Government officials, religious and community leaders should publicly acknowledge the value of domestic work to society and emphasize the equal dignity and autonomy of domestic workers.
-